

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS HOBSON, et al., :
Plaintiffs, :
v. : CA No. 76-1326
JERRY WILSON, et al., : Volume IV
Defendants. :

Washington, D.C.

Tuesday, December 8, 1981

The above-entitled matter came on for trial before
the HONORABLE LOUIS OBERDORFER, United States District Court
Judge, in Courtroom No. 3.

APPEARANCES:

ON BEHALF OF THE PLAINTIFFS:

Mr. Daniel M. Schember, Esq.
Ms. J.E. McNeil, Esq.
Ms. Anne Pilsbury, Esq.

ON BEHALF OF THE FEDERAL DEFENDANTS:

Mr. David White, Esq.
Mr. Dennis F. Hoffman, Esq.

ON BEHALF OF THE DISTRICT OF COLUMBIA DEFENDANTS:

Ms. Laura Bonn, Esq.
Mr. George Barclay, Esq.

Official Reporter: Bruce W. Herzfeld

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<u>PLAINTIFFS':</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Jerry Wilson	8 (Pilsbury)	53 (White)	75 (Pilsbury)	--
		70 (Barclay)		
Blanco Drummond, Jr.	88 (Pilsbury)	115 (White)	121 (Pilsbury)	--
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John Joseph Zelloe	121 (Pilsbury)	--	--	--
John F. Harding	136 (Pilsbury)	147 (Barclay)	--	--
John W. Mahaney	149 (Pilsbury)	--	--	--
Christopher J. Scraper	163 (Pilsbury)	177 (White)	--	--
		180 (Barclay)		
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Gerould W. Pangburn	410 (White)	421 (Pilsbury)	438 (White)	443 (Pilsbury)
Gerald T. Grimaldi	446 (White)	458 (Schember)	461 (White)	463 (Schember)
Courtland Jones	463 (White)	492 (Pilsbury)	504 (White)	--
George C. Moore	505 (White)	532 (Schember)	537 (White)	537 (Schember)
Charles D. Brennan	538 (White)	566 (Pilsbury)	582 (White)	--

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1 Q. Now, during the time that you were chief, was there
2 an Intelligence Division?

3 A. There was.

4 Q. Did it remain operative and functioning throughout
5 the time that you were chief?

6 A. It did.

7 Q. What generally were its responsibilities and duties?

8 A. Well, the Intelligence Division had a responsibility --
9 it had some administrative responsibilities with respect to
10 licensing of special police officers and some other clerical
11 type of licensing functions. I would say that its primary
12 function was the gathering of information regarding potential
13 or actual activities in the city that might lead to a need for
14 police activity.

15 Q. Did it also have an Organized Crime and Rackets
16 Section?

17 A. It did.

18 Q. Was that in operation during the time you were chief?

19 A. It was.

20 Q. Now, during the time you were chief, if you recall,
21 who was in charge of -- or the top man in the Intelligence
22 Division?

23 A. When I became chief, Inspector Tom Herlihy was
24 the director of the Intelligence Division. He later retired,
25 and Inspector Zink, I believe, became director of the

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1 Intelligence Division, and then Inspector Ferguson. I may
2 have their tenure reversed.

3 Q. Would those men report directly to you?

4 A. No, they reported to the assistant chief for
5 inspectional services.

6 Q. Who would that have been during the time you were
7 chief?

8 A. When I became chief, Assistant Chief John Hughes
9 was in charge of inspectional services; at a later point,
10 Assistant Chief George Donahue; and later Assistant Chief
11 Theodore Zanders.

12 Q. Would the Intelligence Division report to your
13 office on a regular basis?

14 A. They would submit written reports through the
15 assistant chief for inspectional services. I also would
16 call frequently for telephone reports from the director of
17 the Intelligence Division.

18 Q. What was the nature of the material they were
19 reporting to you on about?

20 A. Activities occurring, or supposed to be occurring, or
21 planned to occur in this city, and in many cases activities
22 occurring in other cities around the country.

23 Q. When you say "activities," could you be more specific?

24 A. Well, at the time I became chief, one of the great
25 concerns was over what were generally known as urban disorders,

12

1. In the summer of 1951, the first Japanese Embassy in Washington, D.C., was

opened in Washington, D.C.

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1 which occurred in this city, and which were occurring with
2 frequency in other cities around the country, as an example.
3 That would be the primary reason that I might call for
4 telephone reports.

5 I would call them, for example, if some disorder
6 was occurring in the city. I would call them frequently at
7 night or in the morning to find out what their perception of
8 what was happening, because they would generally have
9 patrols out on the street and could tell me fairly well
10 what their perception of it was of what was going on.

11 Frequently I would call them in the morning, particu-
12 larly in the period before I was chief, in 1968 and 1969,
13 when there were urban disorders in other cities. I would call
14 them in the morning to find out what they had learned from
15 disorders in the other cities, and what was occurring, and
16 whether it might have any impact on this city.

17 Q. Prior to the urban disorders that you referred to
18 occurring in this city, had there been a substantial Intelli-
19 gence Division function in existence?

20 A. The Intelligence Division function in this city in
21 the sense that it existed when I was chief developed primarily
22 in 1967. Prior to that the function was essentially -- the
23 unit, I believe, was known as the Special Investigation
24 Squad, and it did some intelligence gathering, but it was not
25 a very comprehensive organization. It primarily dealt with

1 special problems rather than -- they really were not the kinds
2 of activities going on that went on in 1968, 1969, 1967. So
3 it did not exist in the same form.

4 Q. What happened, if anything, in 1967 to cause the
5 Department to create this intelligence function?

6 A. Well, the -- it was essentially what was happening
7 elsewhere that led to the creation of the intelligence function
8 in this city.

9 Q. What was that?

10 A. The urban rioting in other cities, specifically --
11 of course, initially in Watts in Los Angeles, but more
12 specifically in 1967 in Detroit, and Newark, and Cambridge,
13 Maryland in 1964. A whole variety of urban disorders around
14 the country had led the President Johnson to appoint what
15 is known as the Kerner Commission on Civil Disorders, which
16 as one of its recommendations recommended that police agencies --
17 was appalled at the lack of intelligence activity in police
18 departments around the country and recommended specifically
19 that police agencies should form intelligence units with
20 undercover personnel and informants.

21 Simultaneously with the work of the Commission,
22 Ramsey Clark had, beginning in 1967 -- Ramsey Clark was, of
23 course, Attorney General at the time and had organized some
24 significant intelligence activities in this city using the
25 Army, and in early 1968 the Justice Department personnel, and

1 personnel from the Immigration and Naturalization Service, and
2 he was anxious to get those units relieved from that
3 responsibility, and therefore was pressing for the formation
4 of an Intelligence Division.

5 Q. Would it be correct to say, Chief, that in your
6 mind you associate the creation of the Intelligence Division
7 with the recommendations that came about after the riots and
8 civil disturbances in '67 and '68 then?

9 A. That certainly -- well, as you pointed out earlier,
10 the Intelligence Division had other functions, and specifically,
11 if you look specifically at the organized crime function, that
12 recommendation came out of the Katzenbach Commission on Crime
13 and Disorder. If you look at it in separate parts, it
14 developed out of separate activities. But yes, in terms of
15 the intelligence gathering in the streets, it was essentially
16 a outgrowth of the urban disorders and the, if you will,
17 antiwar protests that were occurring in 1967.

18 Q. The antiwar protests, had they begun by 1967?

19 A. Well, the -- when Ramsey Clark brought the Army in,
20 it was over the protest against the Pentagon which developed
21 in this city and was carried over, of course, into Virginia.

22 Q. When you say Ramsey Clark brought the Army in, did
23 he bring the Army into Washington, D.C.?

24 A. The Army was assigned in Washington, D.C. to gather
25 intelligence.

1 Q. You mean when he brought in the Army as an intelli-
2 gence gathering function. He didn't bring the Army in --

3 A. I don't recall that the Army was mobilized in 1967.

4 THE COURT: Pardon me?

5 THE WITNESS: I do not recall that the Army was
6 mobilized in 1967.

7 Q. (By Ms. Pilsbury) Now, you've indicated that you
8 are familiar with the Kerner Commission report. Did the
9 Kerner Commission recommend that it might help prevent urban
10 disorders if police departments developed an intelligence
11 capability?

12 A. I don't think -- I am not an expert on the Kerner
13 Commission report. I don't recall it that clearly, but my
14 interpretation of that specific recommendation was not in
15 terms of prevention. The Kerner Commission, of course, made
16 other recommendations going toward prevention of civil disorder.
17 That specific recommendation I think went to the fact that
18 police agencies and those cities which had disorders -- of
19 course and this city as well -- did not have the capability
20 to understand what was occurring during disorders and when
21 disorders were occurring. I think it went both peripherally
22 to prevention of disorders and to having police available
23 for response when disorders did occur.

24 Q. When you refer to disorders in this city, could you
25 be specific as to date? Are you referring to something that

1 happened on more than one occasion?

2 A. They happened on more than one occasions.

3 Q. Are you referring specifically to the April 1968 --

4 A. Well, April 1968 was -- disorders occurred in other
5 cities in 1967.

6 Q. Chief, directing your attention to this city,
7 when you talk about disorders, what are you referring to?

8 A. I don't mean to be unresponsive. I was not referring
9 to a specific disorder. If you want me to list the disorders
10 that I recall occurring in this city, I will be glad to do that,
11 but I was not referring to any one specifically.

12 Q. Do you recall the disorders in this city in
13 April of 1968? ____

14 A. Yes, I do.

15 Q. Do you recall having any opinion at that time as
16 to what caused those disorders?

17 A. Yes.

18 Q. What?

19 A. The assassination of Martin Luther King.

20 Q. Had there been any disorders of that nature in this
21 city prior to that time in your recent memory, or after that
22 time, that were of that scope?

23 A. Not of that scope, but similar disorders.

24 Q. Now, directing your attention back to the functions
25 of the Intelligence Division, you indicated that you would

1 receive, I believe, weekly reports from them.

2 A. That's my recollection, that written weekly
3 summaries were made.

4 Q. Would you disseminate these weekly reports with the
5 District government?

6 A. I don't recall that we disseminated them beyond our
7 own command staff.

8 Q. Would you make any reports to the City Council, or
9 the mayor, or the Board of Commissioners in the early period
10 based on the information you received from the Intelligence
11 Division?

12 A. Well, of course, at the time I was chief, we had an
13 appointed mayor, and I would make reports to the mayor when
14 necessary. I did not report to him every week of what was in
15 the reports.

16 Q. Would you just report to him when you felt it was
17 something important?

18 A. That's correct.

19 Q. Did you ever report on information gathered by the
20 Intelligence Division outside of the District government to
21 other agencies?

22 A. When they -- when a major demonstration was planned,
23 for example, or if an event was occurring in the city,
24 typically from about -- and I frankly don't know the date --
25 but from about 1966-'67, the Attorney General was designated

1 by the President to keep the Federal Government informed with
2 regard to activities occurring within the District of
3 Columbia. He had delegated that, I believe, to the Deputy
4 Attorney General. So reports would be made to the Deputy
5 Attorney General when major activities were occurring, or
6 sometimes he or one of his assistants would call and inquire.

7 Q. Would they call you?

8 A. Yes.

9 Q. Who is this you are referring to, if you recall the
10 gentleman's name?

11 A. I frankly -- I can't -- I'm sorry, I cannot recall
12 his name. He is now a federal judge in Illinois. The last
13 one I recall is Jonathan Rose, who is now, I think, an
14 assistant attorney general, but I don't recall all the names.
15 It changed from time to time.

16 Q. They would call you directly, and you would give
17 them whatever information you had about upcoming demonstrations.

18 A. Well, that, and of course, for major demonstrations,
19 the Attorney General or the Deputy Attorney General would call
20 a meeting of all the officials in the government who might be
21 concerned with it, including the Department of Justice, the
22 Capitol, which, of course, is a separate branch of government,
23 in some cases the Supreme Court Marshal, which is a separate
24 branch of government, and the U.S. Attorney, and White House
25 officials would attend, so a whole variety.

1 For major demonstrations we would have meetings
2 with perhaps as many as 30 participants.

3 Q. Were you present on the street or in your office
4 during most of the major demonstrations during the period in
5 which you were chief of police?

6 A. I was present on the street during most of the major
7 demonstrations.

8 Q. Okay, I'm going to ask you about a number of
9 specific demonstrations and ask you to respond simply whether
10 or not you recall the demonstration.

11 A. All right.

12 Q. In January 1969, some activities planned to coincide
13 with President Nixon's inauguration, referred to as the
14 counterinaugural?

15 A. Yes.

16 Q. October 1969, Vietnam Moratorium Day?

17 A. Yes.

18 Q. Approximately November 13, an activity in the
19 evening called March Against Death?

20 A. Yes.

21 Q. November 15, 1969, a rally at the Washington
22 Monument grounds?

23 A. Yes.

24 Q. May 9, 1970, a large mass rally at the Ellipse?

25 A. Yes.

1 Q. October -- either 1970 or 1971, a demonstration,
2 a large gathering on the front of the Capitol. By the front,
3 I am referring to the part of the Capitol that faces the
4 Washington Monument.

5 A. In October of '71?

6 Q. It may have been '70, I am not sure.

7 A. Not offhand, I don't recall that.

8 Q. April 24, 1971, again a large mass rally at the
9 Washington Monument?

10 A. April 24? I think so. I am not positive of that.
11 date -- yes, in fact yes, I'm sorry, I do know.

12 Q. And a series of events planned from May 3 to May
13 5, 1971, generally referred to as May Day?

14 A. Yes.

15 Q. Do you recall demonstrations after that period?

16 A. Yes.

17 Q. Now, with the exception of the one at the Capitol,
18 which you indicated that you don't recall, did the Metropolitan
19 Police Department, to the best of your recollection, have any
20 difficulty controlling the crowds or preventing property
21 damage during any of these demonstrations?

22 A. Yes.

23 Q. What ones?

24 A. Could you read me the list again, and I can tell
25 you. Do you want me to try to respond to them individually

1 from memory?

2 Q. You have indicated that you do recall some --

3 A. I recall them all, but you are saying what ones?
4 What was the first one that you listed?

5 Q. Well, let me ask the question --

6 A. Ask me in regard to each of them, and I can tell
7 you.

8 Q. Let me ask you the question again: The question
9 was did the Metropolitan Police Department have any difficulty
10 controlling the crowds and preventing any property damage?

11 A. Yes.

12 Q. Now, is it yes as to both?

13 A. Yes.

14 Q. Do you have any specific recollection as to
15 specific instances of this?

16 A. Yes.

17 Q. Could you describe those?

18 THE COURT: Just to help him you've got to help
19 him organize and be responsive. He invited you to refer to
20 particular incidents. Why don't you go down through your
21 list --

22 MS. PILSBURY: Okay --

23 THE WITNESS: I think I can do it in regard to each
24 of them, if you want to, but I don't remember the first one,
25 and I don't want to leave any out or --

1 Q. (By Ms. Pilsbury) January 1969.

2 A. Yes. We had difficulty controlling the crowd
3 preliminary to the January 1969 inaugural. There was a
4 planned counterinaugural march which was to begin from a large
5 surface tent, which was located over behind the Bureau of
6 Engraving. The march, as I recall, had a permit, and it was
7 to go around in reverse of the inaugural march up Pennsylvania
8 Avenue, down Third Street, back down Independence Avenue. The
9 march was generally peaceful, however there were some incidents
10 of participants in the march who removed American flags from
11 buildings, specifically I can recall the building down at
12 Fourth and Independence Avenue. There may have been others
13 because, of course, it was a very large march, and I didn't
14 observe everything that occurred.

15 The march was supposed to terminate at the tent.
16 Instead, the march tried to go back around again. We had
17 great difficulty in stopping them from doing that.

18 The following day -- or -- I forget the specific
19 date of the march, it may have been on a Saturday -- but in
20 any event, during inaugural day, as it related to that same
21 demonstration, I believe, there were demonstrators who posted
22 themselves in essentially two groups -- rather three groups:
23 One at about 13th and Pennsylvania Avenue, N.W.; another at
24 the triangle in front of -- opposite the District Building;
25 and another up around 15th and Pennsylvania Avenue, N.W.

1 Our intelligence reports were that their intent
2 was to surge into the street as the Presidential parade
3 approached --

4 Q. Chief, I'm going to ask you to stick to what you
5 observed, not what you thought might happen.

6 A. Very well.

7 THE COURT: Objection is overruled. You asked him
8 to describe it and --

9 MS. PILSBURY: It's in reference to a specific
10 question, Your Honor --

11 THE COURT: I'm sorry, but the objection is over-
12 ruled.

13 THE WITNESS: In terms of what I specifically
14 observed, the groups there were burning American flags. They
15 were small American flags that were being handed out by the
16 Boy Scouts. They were 3 x 5, I would say, or thereabouts,
17 and they were building fires from that. In fact, I personally
18 made one arrest of an individual for that.

19 The groups were throwing minor missiles at the
20 police, not large rocks or things, but essentially garbage.
21 At the time the Presidential parade was approaching, I was
22 so concerned about the activities that I observed, that I put
23 out onto the street the National Guard Reactionary Force,
24 and the Deputy Attorney General designate was so concerned
25 that he had the Army deploy the 81st Airborne Division

1 in front of those groups because we were greatly concerned
2 that they were going to surge into the streets and be beyond
3 our capacity to control them. They did try to throw missiles
4 at the President's automobile at that time, after the
5 Presidential portion of the parade had passed, those groups
6 or groups related to them, and of course, they then tried to
7 mobilize themselves in the vicinity of Lafayette Park and
8 were dispersed by the police with considerable difficulty.
9 They tried to remobilize, as I recall, in Dupont Circle, and
10 again were dispersed by police.

11 Q. (By Ms. Pilsbury) Did anybody surge onto the
12 streets?

13 A. No one was able to surge onto the streets.

14 Q. Did they appear to make an attempt to?

15 A. Yes, indeed.

16 Q. Where was this?

17 A. At 13th and Pennsylvania Avenue, at the triangle
18 opposite the District Building, and I suppose that's E Street
19 and Pennsylvania Avenue. We had a major force at 15th and
20 Pennsylvania Avenue at the corner, and to the best of my
21 recollection they didn't even try at that point.

22 Q. Do you recall anything else about that particular
23 demonstration?

24 A. Not offhand -- I do not offhand.

25 Q. Was there any major property damage?

1 A. Not that I recall.

2 Q. Was anybody injured?

3 A. Not that I recall.

4 Q. Did this all take place on one day?

5 A. Well, the counterinaugural march was on one day,
6 and the other activity was on inauguration day, and I believe
7 the counterinaugural march was either the day preceding or
8 perhaps two days preceding the inaugural.

9 Q. So the counterinaugural street parade was not the
10 same day as the actual inaugural.

11 A. No.

12 Q. October 1969, Vietnam Moratorium Day?

13 A. That, as I recall, was a totally peaceful demon-
14 stration encompassing essentially a candlelight march around
15 the White House by absolutely peaceful persons. It went on
16 for several hours, but created no great problems. The only
17 property damage was they left their candles burning on the gate
18 at the Treasury Department and cost the government a lot of
19 money to remove the wax.

20 Q. Do you recall what group organized that activity?

21 A. No, I do not.

22 Q. Now, November 1969, there were two discrete events.
23 If you don't have a separate recollection of them --

24 A. Well, would you tell me what you see as the two
25 discrete events, and then I'll --

1 Intelligence Division?

2 A. They have a category here, Security Investigation
3 Branch. I am not -- since I didn't compile these data, I
4 don't know. If that is intelligence gathering, the answer is
5 yes, but I don't know that that is intelligence gathering.

6 Q. In other words, you don't know what those branches
7 did?

8 A. I don't know what's included in the individual
9 branches.

10 Q. The Organized Crime Branch?

11 A. The Organized Crime Branch I can readily understand;
12 the Special Officer Branch I can readily understand; but the
13 other includes -- apparently includes administration, since
14 they have no administration, and I don't know what else may
15 be encompassed in there.

16 Q. So it might include some overhead for the other two?

17 A. I'm sure it includes --

18 Q. The question was so it might include some overhead
19 for the other two?

20 A. That's correct. I don't know how they have appor-
21 tioned those overhead costs.

22 Q. Did there come a time when, as far as you could
23 observe, the antiwar demonstrations dropped off in the city?

24 A. Yes.

25 Q. When was that?

1 A. The last significant antiwar demonstration occurred
2 in, I believe, April of 1972.

3 Q. Can you explain if that's the case, why then the
4 Intelligence Division budget continued to increase and peaked
5 in 1974?

6 A. We were -- I'm telling you from hindsight when
7 demonstrations petered out. I don't think we knew that with
8 certainty at that time. From hindsight I can see that the
9 last major demonstration was in 1972. I don't think I really
10 realized that until probably 1973, at which time I directed
11 the Intelligence Division to shift its tactics to other
12 activities.

13 Q. Did there come a time when the Intelligence Division
14 shifted its emphasis?

15 A. It shifted its emphasis to organized crime and to
16 fencing operations.

17 Q. When was that?

18 A. I couldn't give you a specific date. I would say
19 about 1973.

20 Q. Were you aware of whether or not the Intelligence
21 Division maintained files on individuals and groups that might
22 be involved in demonstrations?

23 A. I believe they did.

24 Q. Did you know at the time whether they did?

25 A. I would say yes.

1 Q. Did you actually ever see the files?

2 A. I only recall seeing one.

3 Q. Do you recall where the files were located?

4 A. No.

5 Q. Did you have any knowledge of the type of material
6 that was contained in the files?

7 A. Well, I saw one of the files, so I know what was
8 in that one.

9 Q. Did you know whether or not there were any general
10 guidelines as to the type of material that should be contained
11 in the files?

12 A. I don't believe there were.

13 Q. Did there come a time when all of the Intelligence
14 Division files were shredded or otherwise destroyed?

15 A. Yes.

16 Q. When was that?

17 A. About 1974.

18 Q. What prompted that?

19 A. Assistant Chief Zanders had just been assigned as
20 inspectional services officer and reported to me that they
21 had a whole lot of files that were on matters that appeared
22 no longer to be of major significance, and it seemed appropriate
23 to clean them out.

24 Q. Did you concur in the decision to destroy the files?

25 A. Yes.

1 Q. At the time the files were destroyed, had there been
2 any public discussion about Metropolitan Police Department
3 intelligence activities?

4 A. I don't believe so.

5 Q. Do you recall any allegations in the paper by an
6 individual named Robert Merrit who claimed to have worked as
7 a D.C. Police Department informant?

8 A. Vaguely.

9 Q. Do you know whether or not those were made public
10 at the time the files were destroyed?

11 A. I don't know.

12 Q. Was the information in these files information that
13 you felt was useful or helpful to the Department in carrying
14 out its intelligence function?

15 A. You mean in 1974 or previously?

16 Q. Well, first, previously.

17 A. Previously yes, I thought the information in the
18 files was useful.

19 Q. What changed your mind in 1974?

20 A. I thought the issues were dead. I thought the
21 problems were gone.

22 Q. You figured there would be no more major demon-
23 strations in Washington, D.C.?

24 A. That's correct.

25 Q. Did the police department gather information on

1 Division was conducting electronic surveillance during the time
2 you were chief?

3 A. No.

4 Q. You didn't know they were?

5 A. No.

6 Q. Did any of your subordinates?

7 A. Well, if they were --

8 MR. WHITE: I will object to the question, Your
9 Honor.

10 THE COURT: Sustained.

11 Q. (By Ms. Pilsbury) Did the Department have a policy
12 on electronic surveillance at the time you became chief?

13 A. The policy was that electronic --

14 Q. First just answer my question yes or no.

15 A. Yes.

16 Q. Was that a policy that had been enacted by one of
17 your predecessors, Chief Murray?

18 A. The policy was not the policy of Chief Murray.

19 Q. Had Chief Murray issued an order that was circulated
20 in the Department indicating that it was against the Metro-
21 politan Police Department policy to engage in electronic
22 surveillance?

23 A. Chief Murray had issued an order that was circulated
24 in the Metropolitan Police Department indicating his personal
25 policy with regard to electronic surveillance.

1 Q. At the time he circulated that order, he was chief
2 of police, was he not?

3 A. He was.

4 Q. Do you feel that that order was simply his personal
5 opinion as opposed to a direction that the members of the
6 force were supposed to follow?

7 A. It was a direction that members of the force were
8 supposed to follow so long as he was chief of police.

9 Q. When you became chief of police, did you have a
10 different policy?

11 A. The policy when I became chief of police had evolved
12 from one in which the Inspectional Services assistant chief
13 was authorized to conduct electronic surveillance when
14 approved in accordance with the law.

15 Q. Now, when you say "approved in accordance with law,"
16 do you mean going to court and making a showing of the
17 necessity of the wiretap and getting a court order?

18 A. Well, if it's a wiretap, it required a court order.
19 If it was a one-party consent, it did not.

20 Q. What did you base that opinion on?

21 A. My understanding of the law.

22 Q. Are you a lawyer?

23 A. No.

24 Q. It was your understanding that you did not need
25 court approval to do one-party consent; is that correct?

1 was not in command, however, of really any functions of the
2 Department. I was a staff official rather than a command
3 official at that time and was essentially a writer of orders
4 and procedures with regard to the Intelligence Division. But
5 I'm very familiar with its organization.

6 Q. In that capacity you were involved to a certain
7 extent in the organization or even the creation of the
8 Intelligence Division?

9 A. That's correct.

10 Q. You mentioned that the Intelligence Division in a
11 way -- I am not sure if there was a one-to-one ratio or
12 one-to-one connection, but the Intelligence Division or the
13 idea for the Intelligence Division appeared in the Kerner
14 Commission Report; is that correct, or --

15 A. Well, I tried to make the point that a lot was
16 going on in 1966-1967 in the world of police administration
17 and the world of city administration, and the concerns that
18 the government officials here and everywhere had with regard
19 to -- specifically with regard to urban disorders at that
20 juncture in time. And, frankly, the Kerner Commission Report,
21 as I recall, came out in late 1967, and I am reasonably certain
22 that before that report even hit the streets, we had already
23 had direction from the Attorney General essentially to bolster
24 our intelligence activity within the Metropolitan Police
25 Department. So it was sort of contemporaneous. I don't want

1 to say that it was a direct result.

2 Q. Now, you described or at least made reference to
3 the disorder which occurred in the District of Columbia in
4 April of 1968 following the death of Dr. Martin Luther King.
5 Were there disorders of a -- of any significant magnitude,
6 or of any magnitude, in this city prior to April of 1968?

7 A. Let me be careful to modify the term "disorders"
8 and talk about events, because disorders is misleading.

9 In this city from the time of the Bonus March in
10 1932 until 1963, there were no major events, I would say,
11 of any magnitude in terms of demonstrations or disorders.

12 In 1963, of course, there was the major rally led
13 by -- I don't want to say it was led by, although he was
14 certainly a principal in it -- by Martin Luther King and
15 others that was known as the Rally for Jobs and Freedom, an
16 entirely peaceful demonstration. An assemblage of perhaps
17 3- or 400,000 individuals came to Washington. But that was
18 the first major event which had occurred in this city since
19 the Bonus Army, in 1932. From that event, the second major
20 event was shortly after that, and it was -- in terms of
21 police concern and crowd control -- was the funeral of President
22 Kennedy, which gave great concerns over crowd control, not
23 in terms of disorder, but in terms of dealing with large
24 masses of people, which always creates potential for emotions
25 being carried away. We had great concerns during the funeral,

1 for example, that the crowds were going to surge behind Mrs.
2 Kennedy as she came down Pennsylvania Avenue.

3 From that point, the next major event -- and I
4 suppose it was in October of 1967 -- the march or whatever
5 against the Pentagon, which originated down around the
6 monument grounds, and went across Memorial Bridge to the
7 Pentagon.

8 In terms of those kinds of events, the Attorney
9 General had established Army intelligence units here for the
10 Rally for Jobs and Freedom in 1963, had established major
11 Army intelligence activities; and again in 1967 for the
12 Kennedy funeral because it was a quick operation. He was
13 killed and was buried within two or three days, and so the
14 preparations were frantic to say the least.

15 In terms of urban disorders, which is another
16 category of concern, there were urban disorders of relatively
17 small magnitude but of great concern to this city, mainly
18 because they reflected what was occurring in other cities. You
19 have to put yourself in the context of the times and remember
20 that Watts had just occurred, that, I guess, first Newark
21 and then Detroit had major riots. In this city, over in
22 southeast Washington, in Anacostia, we had a march on the
23 police station and some stoning of the police station, not by
24 present day -- not in comparison with later events major, but
25 certainly of great concern. We had an incident out over, I

1 guess, the Anacostia freeway of stoning of passing automobiles,
2 which gave us a matter of great concern.

3 Again, in comparison to the other things, these
4 were relatively minor police problems, not much more than a
5 rock concert. But in the context of the time, they gave us
6 a great deal of concern.

7 When I became assistant chief of field operations
8 in 1968, I anticipated erroneously that if we had disorders
9 in the city, they would originate in Anacostia, and, in fact,
10 had begun to bolster and give great attention to Anacostia,
11 much to my dismay when disorders originated on 14th Street..
12 But in hindsight I would do things differently.

13 THE COURT: We will take our 11:00 o'clock recess
14 and resume at 11:15.

15 - - -

16 Whereupon, a short recess was taken.

17 - - -

18 Whereupon, the following proceedings were had out
19 of the presence and hearing of the jury:

20 THE COURT: Bring back the jury, please.

21 - - -

22 Whereupon, the following proceedings were had in
23 the presence and hearing of the jury:

24 THE COURT: You may resume.

25 Q. (By Mr. White) Chief Wilson, you testified earlier

1 that there was an official at the Department of Justice that --
2 who had some responsibility for obtaining information from the
3 police department -- I'm sorry, I forget the details. I
4 wonder if you could just refresh my recollection and the
5 jury's recollection regarding the nature of your relationship
6 with the Justice Department about that matter.

7 A. Well, it varied depending on who was Attorney
8 General, who was Deputy Attorney General, what was happening
9 at the time. Now, for example, during the period of 1968
10 as a practical matter we held most of our meetings at the
11 Park Service following the disorders because the primary
12 activity in the summer of 1968 was the Poor People's Campaign,
13 which was on park territory. We would have a representative
14 from the Department of Justice, and my recollection is it
15 was Robert Owens was the principal one, although it would
16 vary from time to time. This same individual wouldn't
17 necessarily come all the time.

18 During the activities in 1969, 1970, another
19 Deputy Assistant Attorney General, or Assistant Deputy
20 Attorney General, rather, was our primary contact until
21 problems escalated to the point that someone would call a
22 meeting. I frankly can't remember his name. I can see him
23 in front of me, but I can't remember his name. It would vary
24 from time to time.

25 Q. Now, with regard to this last individual whose name

1 you can't remember, was he the preson who you were referring
2 to, who you believe now is a judge in Illinois?

3 A. Yes.

4 Q. Does the name Harlington Wood --

5 A. Yes, Harlington Wood, yes, Harlington Wood, III.

6 Q. What is your recollection of his position at the
7 time when you were dealing with him?

8 A. Well --

9 Q. His title?

10 A. I believe that he was an Assistant Deputy Attorney
11 General, and he reported primarily to the Deputy Attorney
12 General, who was delegated to primary responsibility for
13 coordinating government efforts with regard to major demon-
14 strations and disorders and needs for troop mobilization.
15 Here and elsewhere in the country, you have to recognize that
16 as an outgrowth of what had occurred in 1967, in cities around
17 the country, and particularly the disorders following the
18 assassination of Dr. King -- following the assassination of
19 Dr. King the Army responses became overwhelmed. They really
20 did not have the personnel to send to Washington, to Baltimore,
21 to Detroit, to a variety of cities around the country where
22 disorders were occurring. So for a long time they had a
23 Lieutenant General assigned essentially to coordinating Army
24 activities and preparedness in terms of civil disorder, and
25 Harlington Wood sort of coordinated that for the Department of

1 Justice, here and nationally. He was sort of our primary
2 contact with regard to major demonstrations that were
3 occurring, spontaneous events that might occur. He would -- I
4 don't want to say frequently because these things tended to
5 be spasmodic. You know, I might have talked to him 10 or 20
6 times a year, but it would probably be in spurts of four or
7 five times a week, and then I wouldn't talk to him for three
8 months.

9 The last, as I can recall, was Jonathan Rose, and
10 there probably were others in between that I don't recall.

11 Q. Jonathan Rose?

12 A. Yes.

13 Q. Was he also with the Justice Department?

14 A. He was the last that I recall, which would be about
15 1974, '75. He was, I think, an Assistant Deputy Attorney
16 General at the time. He came over to see me and said, "We're
17 going through our list of things that the deputy is assigned
18 to do, and one of them is to coordinate the disorders. What
19 do I do?" I gave him my home telephone number. By then things
20 had calmed down to the point that it was not a -- no longer
21 a major concern.

22 Q. Now, I'd like to direct your attention again to the
23 events occurring on the day of the inauguration, January 1969,
24 January 20, 1969. Were you on the street, that is, present,
25 during the demonstrations that were occurring and activities



1 that were occurring on Pennsylvania Avenue?

2 A. I was.

3 Q. What you were describing earlier was your personal
4 observation?

5 A. Yes.

6 Q. What connection, if any, was there between your
7 authority and responsibility at that time and the deployment
8 of the National Guard?

9 A. The National Guard in this city historically,
10 going back into the early '60s, has regularly been used -- I
11 don't want to say mobilized, because even without having
12 thought through it, I think there are some distinctions in
13 the manner in which they were used -- were regularly used to
14 supplement the police force in terms of parades. For example,
15 I can recall the National Guard having been used to supplement
16 the Police Department for cherry blossom parades where there
17 was no great concern except traffic control.

18 My impression is that it was done primarily because
19 the National Guard had a significant military police complement,
20 and it was good training for them. They did it out of their --
21 they went into a training status, I believe, and did it out of
22 their training drill money. This was typical of the way this
23 was done going back, as I say, to the '60s and perhaps prior
24 to that.

25 For significant events -- and the first of these that

1 I can recall happening was the 1963 Rally for Jobs and
2 Freedom -- the chief of police at that time, Chief Murray,
3 was designated by the -- by agreement -- by those empowered
4 to be the chief of all the police forces operating in the
5 District of Columbia, which come under various government
6 jurisdictions: The Park Police, the National Guard, which
7 were mobilized, were under the police chief and peripherally
8 other police. He was in charge of all police except the
9 Capitol Police. As a matter of law, the Capitol Police
10 grounds, and the Supreme Court grounds in this city are
11 separate police jurisdictions because they're separate
12 branches of government. But the chief of police was in charge
13 of all police forces, including the National Guard. The
14 commanding general of the National Guard at that time was in
15 charge of the National Guard, but he sat in a command center
16 with me because he was really working essentially for the
17 chief of police. This was sort of the historical way that it
18 occurred. Whenever the National Guard was mobilized in this
19 city, ordinarily they came under the authority of the chief
20 of police.

21 In 1969 specifically I was not chief of police
22 during the inaugural. I was assistant chief of field
23 operations. The chief of police had authority over the
24 National Guard, which again was mobilized, probably as a
25 training drill. I don't think they were -- I don't recall

1 whether they were formally called into service or not. That
2 authority was on an operating basis, essentially evolved on
3 me as assistant chief of field operations. Specifically what
4 I deployed was the Reactionary Force of the National Guard,
5 which we had assembled, or had been assembled, which was in
6 green work clothes rather than in full uniform, and I deployed
7 them on Pennsylvania Avenue with authority of the deputy
8 mayor as a matter of fact.

9 Simultaneously, the Deputy Attorney General
10 designate demanded, and accomplished it somehow, that the
11 81st Airborne be deployed on Pennsylvania because he observed
12 what was occurring as well.

13 Q. Did you have any authority as assistant chief of
14 field operations, and whatever additional authority was
15 delegated to you on that day, did you have any authority
16 relating to the 81st Airborne?

17 A. No.

18 Q. They were under the control of the Justice Department
19 at that point or the military?

20 A. In that particular instance I don't know. We had
21 not, as I recall--and I'm reasonably certain that they were
22 under control of the Army, and the normal course of events that
23 evolved -- and I suppose it was in effect on that day -- was
24 that the Army commander ordinarily reported to the Deputy
25 Attorney General. This was the established system. The

1 Deputy Attorney General was ordinarily the official who was
2 designated by the President to issue orders to the Army, and
3 that prevailed in that instance, I believe. It prevailed in
4 May 1970, a Cambodian demonstration, and May 1971 I was
5 designated as the official who responded.

6 Q. In May of 1971?

7 A. Yes.

8 Q. Sir, with regard to the May 1971 demonstrations,
9 Miss Pilsbury asked you a couple of questions relating to that.
10 I wanted to go back over that just a bit.

11 Now, you testified that you recall that there was a
12 rally on the steps of the Capitol at which the demonstrators
13 were arrested. Now, is it correct, sir, that the demonstration
14 or the activities during that period of time actually extended
15 over three days, a three-day period; is that your recollection?

16 A. That is correct.

17 Q. What day did the activity begin for what we commonly
18 call May Day? Can you recall the day of the week?

19 A. I don't recall the day of the week. I think
20 perhaps May 2, May 1, the dates are not clear. The demonstration
21 at the Capitol was not the first of the demonstrations. The
22 first of the demonstrations was the day preceding that. So if
23 it was May 3, then it would have been on May 2 or May 1.

24 Q. What is your recollection as to what occurred on
25 the first day of that three-day series?

1 A. Well, there was an effort throughout the city to
2 block traffic. The organizers of the May Day demonstrations
3 had published a comprehensive manual based according to our
4 intelligence sources on the experience that had grown out of
5 the 1970 demonstration. I had mentioned earlier that in 1970,
6 the demonstrators, or some of them, some parts of the
7 demonstrators, certainly not all, some groups of the demon-
8 strators had blocked traffic up on 16th and K Street, which
9 was fairly easy to handle because it was in the city, and it
10 was at night, and there wasn't that much traffic downtown with
11 the major demonstration anyhow. As I recall, we arrested
12 them, but it was not a major problem because of the time of day
13 that it occurred. As parts of the demonstrators went north,
14 they blocked traffic on the freeways. The organizers of the
15 May 1971 demonstration stated that this had proven to be
16 an effective --

17 MS. PILSBURY: I will object to that as hearsay
18 testimony, Your Honor.

19 THE COURT: It is overruled.

20 THE WITNESS: -- that it was an effective tactic,
21 and they produced a pamphlet of, I think, perhaps 30 pages
22 outlining the major corridors of the city and proposing a
23 plan to block all traffic coming into the city with the notion
24 that they were going to close down the Government of the
25 United States. This was attempted on the first day of the

1 demonstrations. Again, it may have been May 2. I am not
2 clear on the dates at this point.

3 The following day was the demonstration at the
4 Capitol grounds at which they were arrested not for disorder,
5 but for violation of the statutes pertaining to the Capitol
6 grounds producing demonstrations.

7 Q. With regard to the demonstration or rally on the
8 steps of the Capitol, were you present at that rally prior to
9 the time that the arrests commenced?

10 A. I no longer recall. I believe I arrived shortly
11 after they had commenced, but I am not positive. You have to
12 understand that the Capitol grounds, as I mentioned earlier,
13 were not under my jurisdiction, they were under the juris-
14 diction of the Capitol Police Board and the Capitol Police
15 chief. While I was there and present during a significant
16 part of the day, I don't remember if I was there at the point
17 the arrests commenced.

18 Q. So, when you stated that to the best of your
19 recollection that it was a peaceful rally, that was based on
20 your observation at the point at which the --

21 A. Yes.

22 Q. -- somebody started the arrest procedures.

23 A. At the point that I observed.

24 Q. Who was responsible for the arrests that occurred
25 on that occasion? What law enforcement --

1 Q. Well, the chief of the Capitol Police was in charge
2 of the police at the Capitol, and I believe was
3 taking his directions from the Capitol Police Board. I no
4 longer know. I'm sure it's a matter of record somewhere, but
5 I don't know.

6 Q. Chief Wilson, with regard to demonstrations occurring
7 in May of 1970, you testified that you can recall that there
8 was a demonstration on the Ellipse. Were there any other
9 demonstrations occurring during that period in any other part
10 of the city that you can recall?

11 A. Well, I have alluded to the aftermath of the demon-
12 stration, but I don't recall -- offhand I do not recall any
13 other demonstrations of any significance separate from the
14 major assemblage on the Ellipse and the aftermath events.

15 Q. Sir, where is Ward Circle located in the city?

16 A. Ward Circle is essentially at American University.
17 It's at American University and Nebraska Avenue, and, indeed,
18 I recall the demonstrations at Ward Circle, now that you've
19 refreshed my recollection, which were occurring at Ward Circle
20 at that time. In fact, I tear gassed my wife, and child,
21 and dog because I lived in that area..

22 Q. This was also in May of 1970?

23 A. It was, yes.

24 Q. What do you recall about that demonstration?

25 A. It was essentially a group of individuals. It's

1 difficult to characterize them as American University students
2 because I know there were some outsiders there, and, indeed,
3 I recognized some friends of mine that don't go to American
4 University, but who were there demonstrating -- children of
5 friends of mine -- but it was essentially a demonstration aimed
6 at blocking traffic adjacent to American University; blocking
7 rush hour traffic in the evening on Massachusetts Avenue
8 primarily; and there were some peripheral demonstrations along
9 Nebraska Avenue. It was not -- there was some throwing of
10 minor missiles and that sort of activity, and we arrested a
11 few and had a little use of tear gas, but to my recollection --
12 in fact, it stopped because I had the officers take cameras which
13 had no film in them and begin to take pictures and said I was
14 going to turn them over to the university president, and the
15 demonstrators went home. It was sort of a pantywaist affair.

16 Q. Would you describe this as a more or less spontaneous
17 demonstration rather than one that had been planned and for
18 which apparently there was no permit --

19 A. There was no permit for it. My recollection is
20 it was sort of a prelude to the Cambodian demonstrations,
21 not specifically planned, but that the individuals coming from
22 out of town to the demonstration on the Ellipse perhaps were
23 staying at American University and began to build up a little
24 sympathy there.

25 You have to remember that also Kent State had -- the

1 events at Kent State had occurred, and this had built up some
2 concern on college campuses at the time.

3 Q. So you also testified concerning an event that occurred
4 at the Department of Justice. I don't recall now which
5 demonstration that was at, but I believe your testimony was
6 that there was a group of several people who, following some
7 rally at another location, proceeded to the Department of
8 Justice and began to create some activities --

9 A. Several thousand people. In fact, the street --
10 Pennsylvania -- rather, Independence Avenue -- was probably
11 full for over two blocks long. I would suppose -- I really
12 don't know -- maybe 10-or 15,000, maybe more.

13 Q. What was the date of that activity?

14 A. That was in November of 1969, probably. November
15 12 or 9, or something or other.

16 Q. Had there been any information in the permit
17 applications or during previous negotiations -- that is,
18 negotiations prior to the demonstration, if there were any
19 such negotiations, -- which disclosed the possibility that a
20 group might attempt such a demonstration?

21 A. My recollection is -- and I'm not positive of this --
22 but my recollection is that we had issued a permit for a
23 march to the Justice Department, which was then to disperse,
24 and they refused to disperse, and they became disorderly and
25 destructive.

1 Q. What was the nature of the disorderliness?

2 A. Breaking of windows, the throwing of paint on the
3 building, the taking down of the American flag, the throwing
4 of stones and missiles towards the police.

5 MR. WHITE: I have no further questions, Your Honor.

6 THE COURT: Mr. Barclay?

7 - - -

8 CROSS EXAMINATION

9 By Mr. Barclay:

10 Q. Mr. Wilson, as first assistant chief and then
11 chief of police during the period 1969 through '71, can you
12 recall approximately how many demonstrations you were involved
13 in in your capacity as chief of police -- major demonstrations?

14 A. Well, if you say major demonstrations, perhaps 10,
15 depending on where you draw the line on major.

16 Q. Through that experience did you have, or did you
17 gain, some familiarity with the mechanics of a demonstration?
18 By "mechanics" I mean how a demonstration would ebb and flow.

19 A. I became experienced with the fact that demon-
20 strations change from time to time, that there seemed to me
21 to be a direct response among the disorderly elements that
22 attached themselves to demonstrations. There tended to be a
23 direct response to police tactics on one hand, to develop
24 some new tactic on another. The -- you can almost see this if
25 you look at, for example, the 1968 riots in Chicago at the

1 Democratic Convention where there was essentially a facing
2 off against police lines in which there were arrests, and
3 rightly or wrongly a lot of injuries to demonstrators, which
4 evolved into the response tactic known as the "Days of Rage"
5 essentially, in which the demonstrators, if you will -- I
6 don't like to use the term "demonstrators" because -- I have
7 to stress that the vast majority of the demonstrators were
8 peaceful individuals. But those disorderly groups that
9 attached themselves to them evolved a tactic of hit and run,
10 a purposeful tactic of smashing windows through the city,
11 which was a tactic the police were not well equipped to cope
12 with.

13 We saw essentially that same tactic that was
14 occurring in Chicago in October of 1968 -- I'm sorry, 1969 --
15 and the same kind of tactic occurred here in November of 1969
16 because it was -- and we developed a tactic to deal with that.
17 We essentially began to deploy scooters as a tactic to keep
18 individuals away from windows.

19 Then you had the evolution which grew out of
20 apparently the Cambodian experience of blocking traffic, which
21 led up to the 1971 notion of May Day and the blocking of
22 traffic as a tactic. I don't know what would have developed
23 next because, of course, then the draft laws changed, and the
24 war was winding down, and nobody cared anymore, and the
25 demonstrators essentially went away. But there was an

1 evolution. I don't think you can take one demonstration and
2 say this is a demonstration.

3 Q. Would it be fair, then, to say that demonstrations
4 involving numbers of 100- to 300,000 people really confined
5 themselves to the preliminaries contained in the permit
6 application, assuming there was a permit?

7 A. My impression is that the leadership of the
8 demonstrators, the applicants for the permit, generally tried
9 to confine themselves to the parameters of the permit. The
10 problem is that large demonstrations almost invariably -- and
11 I cited one example, the Rally for Jobs and Freedom, which had
12 no fringe groups -- but that's almost from a different era,
13 from the late '60s and early '70s. But the fringe groups
14 which attached themselves to demonstrations were essentially
15 beyond the control of the applicants for permits.

16 Q. Did these fringe groups -- in your experience were
17 these frings groups generally found or attached to the
18 demonstrations that you described in previous testimony?

19 A. Were they what?

20 Q. Were the fringe groups involved in the 10 or so
21 demonstrations which you --

22 A. For any large demonstration almost you could expect
23 that some groups would attach themselves to it.

24 Q. As assistant chief and then later chief of police,
25 what was your concern on learning that demonstration of

1 100,000 or 300,000 people was planned in the District, in
2 Washington?

3 A. Well, our first concern was to learn what was --
4 what the applicant said was going to occur, and also to know
5 what else might occur, how many people would come. The
6 Intelligence would poll bus companies around the country,
7 principally New York and Philadelphia because the demon-
8 strations in this city tended to flow from that direction --
9 the number of buses that were coming, the number of trains,
10 special trains, if any, that were coming, so that we could
11 get a handle on how many people were coming. We would try to
12 find out what fringe groups intended to appear.

13 Q. How did you see your responsibility as chief of
14 police?

15 A. With regard to demonstrations?

16 Q. With regard to demonstrations.

17 A. Well, to prevent injury to persons and damage to
18 property was our primary objective.

19 Q. In discharging this responsibility, would it be fair
20 to say that you would need the best and latest information
21 possible with regard to demonstrations?

22 A. Certainly.

23 Q. Is it a fact that the Intelligence Division was
24 designed or created just to provide you with such information?

25 MS. PILSBURY: These are leading questions, Your

1 Honor, and I am going to have to object.

2 THE COURT: It is cross examination.

3 THE WITNESS: Yes.

4 Q. (By Mr. Barclay) Did you find such information
5 helpful or useful?

6 A. Absolutely.

7 Q. In your opinion could you have discharged your
8 responsibilities without such information?

9 A. During that period? Certainly not. It went beyond
10 demonstrations. You must recognize that a lot was happening
11 in this country in those years. We were concerned over
12 bombings, which had not been referred to here, we were
13 concerned over assassinations -- ambush, I guess, is the
14 term of police officers -- which was occurring with increasing
15 frequency in the United States during the period -- particularly
16 in the 1970s. Up until 1970, I think there had been two
17 ambushes of police officers. In 1970 I believe there were
18 25 nationally. In this city we had two that I recall, one
19 during an urban disorder, and one unrelated to it. We were
20 concerned over the activities of the Black Panther group that
21 was housed up on 18th Street. There were many things that --
22 you have to recognize the evolution of concern in this
23 country during the late 1960s and 1970s over what was
24 happening. We were afraid that everything that was happening
25 in California would happen here. That's why this courthouse,

1 which, when it was built -- and I remember when it was built --
2 you could walk in and out of it and have lunch, and you didn't
3 come through a scanning device.

4 America changed in the late 1960s and 1970s due to
5 a lot of activities that were occurring that the police had a
6 responsibility to cope with.

7 MR. BARCLAY: I have nothing further, Your Honor.

8 THE COURT: Redirect, Ms. Pilsbury?

9 MS. PILSBURY: Yes, thank you, Your Honor.

10 - - -

11 REDIRECT EXAMINATION

12 By Ms. Pilsbury:

13 Q. Chief, you referred to being present at the Capitol
14 steps, you indicated, on May 3, 1971.

15 A. Yes.

16 Q. And you indicated, I believe, that the people there
17 were not arrested for being disorderly, but for some violation
18 of some Capitol grounds --

19 A. For violation of a Capitol grounds permit, yes.

20 Q. Were those arrests upheld subsequently in court?

21 A. I believe they weren't.

22 Q. Do you know for a fact whether they were?

23 A. No, I do not believe they were. I do not know for
24 a fact.

25 Q. You don't know?

1 with regard to the particular incidents that you have been
2 asked about, you believe that the District of Columbia Police
3 Department, when you were in command of it, when you were
4 assistant chief, when you were in executive responsibility,
5 was used for that kind of purpose, to suppress dissent?

6 THE WITNESS: Your Honor, that's a difficult -- I
7 am personally troubled by intelligence gathering, and so I
8 share your concern. I share the concern that intelligence
9 gathering particularly with regard to political, quote,
10 "leaders" is a problem.

11 Let me first say no, I don't think we were used to
12 quell political dissent. We did not get that kind of
13 direction from the White House during any of the administrations,
14 and I think the most -- the only unlawful, quote, order that
15 I can remember is that Lyndon Johnson told us that he didn't
16 want to see any Poor People's Campaign participants at the
17 White House fence, which I think verges a little bit on your
18 question.

19 Beyond that, I don't think so. There was not any
20 communication coming to me, and I was the one during the period
21 1969 to 1974 that the communications came to. I don't think
22 there was anybody doing anything with regard to the police
23 force in the District of Columbia that didn't come to me.
24 We were not, I assure you, handing up information to the
25 White House on individuals. We really were not collecting that

1 kind of information. I'm speaking only in terms of the police
2 department. I can't speak in terms of the FBI. I can't
3 speak in terms of the FBI because --

4 THE COURT: That is all I'm asking you right now.

5 THE WITNESS: The FBI and Mr. Hoover and I did not
6 get along at all. At the working level I think the
7 intelligence gatherers got along very well, but he and I were
8 not close friends at all. I don't know what was happening
9 there. I don't want to lead you to think -- to suspect
10 something was happening there, but there was not an attempt
11 by the White House so far as I observed to quell political
12 dissent in the city.

13 There are real problems in terms of knowing when to
14 collect intelligence. If you go back to the period of 1967,
15 1968, 1969, in hindsight -- frankly, I -- personally I was
16 never that paranoid about things, but there was a lot of
17 concern in this country that a revolution was underway. You
18 know, what is political dissent, and what is a revolution?
19 This particularly went to the urban riots. There was a lot
20 of concern that the urban riots were a prelude to a revolution.
21 Looking back it seems laughable that people thought that. At
22 the time it didn't. If you looked at the history, and scares
23 of 1920, and the way people reacted to the police riots in
24 Boston, and put it in context of the Red scare, it is laughable
25 now, but they were very real fears at the time.

1 The difficulty was that we really needed to know,
2 I think, to protect the city, what was occurring. Stokely
3 Carmichael was a political leader, I think. I would define
4 him as a political leader, but in my judgment Stokely
5 Carmichael should have been indicted and tried for inciting
6 to riot and would have been except that I believe -- David
7 Bress told me he didn't because he didn't want to upset the
8 city. I honestly believe it was because Mr. Clark told him
9 not to, and David Bress agreed with the U.S. Attorney at the
10 time that we had an indictable information on him.

11 The Black United Front, subsequently, was a lot of
12 respectable political leaders, and I think there were respec-
13 table political leaders. But in 1968 when they said to the
14 public -- and I know counsel will debate what they really
15 said -- but when they said to the public and to all the young
16 black youth of this city that shooting a policeman is
17 justifiable homicide, that was reason for concern. And
18 certainly I did not expect our Intelligence Division not to
19 have someone attend their meetings. Did we try to quell them?
20 No. Did we ever take activity to disperse them? No. I think
21 I can honestly say that we never took any activity in the
22 Department that tried to interfere with what anyone was doing
23 unless we thought we had a criminal offense.

24 But we gathered information. It was a very real
25 concern about the Black Panthers on 18th Street. They had a

1 house there, they had bricked up the windows, barricaded the
2 back. We were -- it turned out that we had one instance up
3 there where they hit a police officer in the head with a
4 brick over a minor domestic dispute that they had inside, but
5 we were very, very greatly concerned about what was going on
6 in there and the fact that we couldn't effectively gather
7 intelligence on them. Their history across the country I
8 think was a cause for concern.

9 Was it a political movement? I think you can define
10 it as a political movement. I don't think, Your Honor, that
11 we were doing anything to stop their movement or to interfere
12 with them. We tried to indict them over the assaulting of an
13 officer, and unsuccessful, the case ended up being dropped.
14 But I don't think we were doing anything to interfere with
15 anyone's dissent, so --

16 THE COURT: What would it take -- what would prevent
17 that from happening? What did prevent that from happening?
18 By that I mean abuse of the power of the police to aim at
19 dissenters, quell dissenters in your opinion?

20 THE WITNESS: Your Honor, I don't think there was
21 an inclination in the government to do it. Now, the White
22 House under Mr. Nixon had a slightly more -- well, had a
23 more of a view that the demonstrators were anarchist than I
24 did, and it was a matter of sort of friendly activity between
25 us. They had a tendency, and I think Mr. Agnew particularly

1 and Martha Mitchell more specifically, with regard to the
2 1969 demonstrations which ended up with the problem at the
3 Justice Department, and tended to talk about them as a bunch
4 of rabble. I think I can sort of recognize where they were
5 coming from. I saw it -- in my view -- less of a concern
6 than they did. I saw it as sort of a disorderly demonstration.
7 But people who sit somewhere else and look out at these events
8 were greatly concerned. I am perhaps more fatalistic than
9 they are, or I didn't have the responsibility, but I think my
10 judgment was -- and it's not supported by some of the other
11 events than the things that they did -- it was that they were
12 reasonably careful about what they were doing.

13 THE COURT: In respect to the dissent --

14 THE WITNESS: In respect to the dissent, and in
15 respect to trying to give permits, and in respect to -- no
16 one ever asked me to gather information on any individual
17 in terms of what they were doing, or to give us their -- they
18 may have had better sources than me, so that may be why. I
19 don't want to say that they weren't asking, but --

20 THE COURT: I'm asking about --

21 THE WITNESS: I don't have the impression --

22 THE COURT: I am asking about the District of
23 Columbia Police Department.

24 THE WITNESS: There was a -- I thought it was a
25 general reasonableness in their approach to things, and a

1 recognition that people had the right to dissent.

2 THE COURT: Does the District of Columbia Police
3 Department have rules or regulations or traditions that the
4 public can rely on in this respect?

5 THE WITNESS: It has them, Your Honor, but there's
6 another side to the coin. A different group of political
7 leaders could certainly subvert, if you will, the police
8 department.

9 THE COURT: In the sense of --

10 THE WITNESS: I mean I can't sit here and tell you
11 that there is anything that would preserve the police department
12 if you had a President who had the power -- the political
13 power to misuse the Department. It's a -- it's one of the
14 historical facts of police agencies in America, which does not
15 pertain to this department, that in many cities police
16 chiefs are appointed for specific periods of time just to
17 prevent that. It is becoming embarrassing in some examples,
18 for example, in Atlanta, Georgia, where the police chief was
19 appointed for 14 years, and they had a change of mayors, and
20 they really had to virtually sue him to get him out; and, of
21 course, in Milwaukee, where the state legislators have
22 always been afraid of those German Communists in Milwaukee,
23 and therefore, the police chief there is appointed by the
24 legislature for life; and there was a move in the District of
25 Columbia in 1968 by the Congress primarily growing out of the

1 riots, the urban riots. There was a move to make a police
2 commissioner for the District of Columbia who would be
3 appointed and would be an independent individual appointed
4 by the Senate, the House, the President, and someone else.
5 So there -- the question you are asking is not an unusual
6 question, and it has certainly been a matter of concern, but
7 in answer to your question as the Department is constituted
8 today, could a mayor subvert it? Absolutely. Could a
9 President subvert it? A little more difficult because of the
10 Home Rule Act, but if he had enough political power, he could
11 subvert it. I'm not sure I've answered your question.

12 THE COURT: Yes, you have.

13 THE WITNESS: But it's a historical concern in
14 America, the control over the police and the fact that the
15 police are, in effect, an army, and are capable -- a good
16 police department such as this one could do great damage if --
17 not the chief, the chief can't, but if a political leader at
18 either the mayor's level or the Presidential level obtained
19 the political power to exercise it. There are lots of checks
20 and balances. This government is -- one reason this city has
21 never been very corrupt is because there are so many overseers
22 of this government historically in terms of the President,
23 and the Hill, and the courts, and the Council that it would be
24 very difficult for someone to do that, but it is not impossible.

25 THE COURT: Thank you very much. You may step down.

1 Call your next witness.

2 MS. PILSBURY: The next witness will be Officer
3 Drummond, Your Honor.

4 - - -

5 Whereupon, the following proceedings were had in the
6 presence and hearing of the jury:

7 BLANCO DRUMMOND, JR.

8 called as a witness on behalf of the plaintiffs, and having
9 been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 By Ms. Pilsbury:

12 Q. Mr. Drummond, would you please state your full name
13 and address?

14 A. Blanco Drummond, Jr., 3609 Tyrol Drive, Landover,
15 Maryland.

16 Q. Are you currently employed by the Metropolitan
17 Police Department?

18 A. No, I'm not.

19 Q. Were you in the past?

20 A. Yes.

21 Q. Do you recall what the years were that you worked
22 for the Metropolitan Police Department?

23 A. Yes.

24 Q. What were they?

25 A. April 1961 to August 1980.

1 as well as, say, activities that were involving the freeway
2 controversy and the Black United Front?

3 A. I have to explain. It depends on -- or it depended
4 on the number of personnel that we had. The primary assignment
5 when I was there, I had maybe five, six groups, and I had no
6 antiwar groups.

7 Q. Excuse me?

8 A. I didn't have any antiwar groups.

9 Q. What type of groups did you have?

10 A. I had black groups primarily.

11 Q. Were most of the officers in your squad black?

12 A. No.

13 Q. Were they --

14 A. I had both.

15 Q. -- black and white?

16 A. Yes.

17 Q. Were there other squads that had primary assignment
18 as antiwar groups?

19 A. Yes.

20 Q. Do you recall who was the leader of that squad or
21 those squads?

22 A. Sergeant Scrapper was assigned to one squad, but
23 I don't know which. Sergeant Chessser was assigned to a squad.

24 THE COURT: Who was the other one?

25 THE WITNESS: Chessser.

1 MS. PILSBURY: Chesser, Your Honor, C-h-e-s-s-e-r.

2 Q. (By Ms. Pilsbury) Now, Sergeant Drummond, during
3 the time that you were a squad leader, you said you had primary
4 assignment for black groups. Did you have other or secondary
5 assignments?

6 A. Yes.

7 Q. What were those?

8 A. To monitor demonstrations of any groups.

9 Q. Now, in connection with the black groups that you
10 monitored, did you gather information on the Black United
11 Front?

12 A. Yes, I did.

13 Q. Would you gather information, I assume, on the
14 individuals who were active in the Front?

15 A. Yes.

16 Q. Would you maintain files by individual name?

17 A. Yes.

18 Q. Do you recall if you maintained a file on the
19 activities of Reginald Booker?

20 A. Yes, I think we did. I can't be specific, but
21 we did.

22 Q. How about Reverend David Eaton?

23 A. I don't recall Reverend Eaton.

24 Q. You don't recall Reverend Eaton, or you don't recall
25 maintaining a file on him?

1 A. That's what I mean. I don't recall maintaining a
2 file on him.

3 Q. Do you recall whether or not he was active in the
4 Black United Front?

5 A. No, I don't.

6 Q. Did you have informants in the Black United Front?

7 A. I'm sure I did. I don't remember who they were, but --

8 Q. We don't care who they were.

9 A. I don't recall specifically any informant in the
10 group.

11 Q. How did you gather information on the Black United
12 Front?

13 A. I used informants, but I don't remember who they
14 were.

15 Q. But you do recall you had informants?

16 A. I had about 33 of them.

17 Q. Excuse me, how many?

18 A. I had about 33 of them.

19 Q. Were they all in the Black United Front?

20 A. No.

21 Q. About how many were in the Front?

22 A. I don't know.

23 Q. But you recall there were some in the Black United
24 Front?

25 A. Yes.

1 Q. What would be the pattern of their reporting to
2 you?

3 A. Usually by telephone.

4 Q. Would it be weekly, daily, monthly?

5 A. No, it would be daily.

6 Q. Did you give these informants any specific
7 instructions as to what they were supposed to do?

8 A. Yes.

9 Q. What did you tell them?

10 A. I don't remember any specific instructions, but I
11 gave all the informants instructions. I don't remember what
12 they were.

13 Q. Do you recall whether or not they were given any
14 guidance as to the nature of the information they were to
15 obtain?

16 A. Yes.

17 Q. What was that guidance?

18 A. We were looking for plans of any disruption.
19 Basically that is what the instructions were.

20 Q. Would disruption include public rallies and demon-
21 strations?

22 A. I don't understand your question.

23 Q. Well, let me withdraw the question and ask you
24 this: What did you mean by "disruptions"?

25 A. Any planned activity to interfere with the normal

1 operations in the city, so to speak.

2 Q. Could you give an example?

3 A. A good example was May Day, when the demonstrators
4 were going to close down the city.

5 Q. Can you give an example that relates to the Black
6 United Front?

7 A. No.

8 Q. Did you ever receive any information that the Black
9 United Front planned this sort of disruption such as occurred
10 on May Day of 1971?

11 A. No.

12 Q. For approximately how long -- excuse me. Let me start
13 over again: Do you recall when you first began to gather
14 information on the Black United Front?

15 A. No, I don't.

16 Q. Do you have any recollection as to how long you
17 continued to gather information on the Front?

18 A. No.

19 Q. Did there come a time when you stopped?

20 A. I am sure I did. I don't know when.

21 Q. Were they still gathering information in August of
22 1980 when you left the division?

23 A. I was not in that branch. I was still in the
24 division, but not in that branch.

25 Q. When did you leave that branch?

1 A. No.

2 Q. During the time that you were gathering information
3 on the Black United Front, would you ever have occasion to
4 compare notes with FBI agents in the field?

5 A. Yes.

6 Q. Do you recall specifically who the FBI agents were
7 that you would have any contact with?

8 A. There was one agent that I talked to. I talked to
9 several agents, but there was one primary agent that I talked
10 to.

11 Q. Who was the primary agent?

12 A. Jerry Pangburn.

13 Q. Do you know what his assignment was?

14 A. Not really. His assignment was probably parallel
15 with mine. That's why I talked with him.

16 Q. Did he also have informants in the Black United
17 Front?

18 A. I don't know.

19 Q. Was he gathering information on the Black United
20 Front?

21 A. Yes.

22 Q. Would you give him information that you got?

23 A. Yes.

24 Q. Would he give you information that he got?

25 A. Yes.

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1 Q. Did he appear to have any other source of
2 obtaining information than your informants?

3 A. He gave me information. I don't know where he got
4 it or how he got it.

5 Q. Was it customary at that time for intelligence --
6 excuse me. Was it customary at that time for MPD Intelligence
7 people and FBI intelligence people to let each other know
8 who each other's informants were?

9 A. No, I don't think that was customary.

10 Q. So is it possible that some of the things that your
11 informants reported to you about might have been statements
12 made by informants of other intelligence agencies?

13 A. That's possible.

14 Q. Do you know whether or not that, in fact, ever
15 occurred?

16 A. No, I don't know.

17 Q. At the time that you knew Mr. Pangburn, what did you
18 understand to be the FBI's interest in the Black United Front?

19 A. I never gave it a thought. I don't know what the
20 interests were.

21 Q. Had you at that time heard of an FBI program called
22 COINTELPRO Black Nationalist?

23 A. No.

24 Q. Have you since?

25 A. No.

1 Q. Were you aware at that time of any desire on the
2 part of Mr. Pangburn to disrupt or interfere with the
3 activities of the Black United Front?

4 A. No --

5 MR. WHITE: I will object to the form of the question,
6 Your Honor, in that it assumes that Mr. Pangburn had such a
7 desire.

8 THE COURT: The objection is overruled.

9 Q. (By Ms. Pilsbury) Did you answer that?

10 A. Ask the question again, please.

11 Q. Were you aware at that time of any desire on Mr. ' .
12 Pangburn's part to disrupt or interfere with the activities
13 of the Black United Front?

14 A. No.

15 Q. About how often would you see him?

16 A. I only saw him once.

17 Q. Where was that?

18 A. At FBI headquarters.

19 Q. What were you doing at FBI headquarters?

20 A. I don't know.

21 Q. So you never saw him in the field?

22 A. No.

23 Q. Would you, yourself, actually go to Black United
24 Front activities?

25 A. Demonstrations, yes.

1 Q. Would you be undercover?

2 A. No.

3 Q. Did they know you were a police officer?

4 A. Some of them.

5 Q. Which ones do you feel knew you were a police
6 officer?

7 A. Reverend Moore.

8 Q. How --

9 A. Absalom Jordan.

10 Q. On what do you base your opinion that Reverend
11 Moore knew you were a police officer?

12 A. He came to my office.

13 Q. Your office in the Intelligence Division?

14 A. Yes.

15 Q. For what purpose?

16 A. He was with Absalom Jordan, who had applied for a
17 pistol permit.

18 Q. Was issuing pistol permits an additional function of
19 the Intelligence Division?

20 A. That's correct.

21 Q. So, would he have known that you were involved in
22 undercover work in the Black United Front from that encounter?

23 A. I wasn't involved in undercover work. There was
24 nothing covert about my being there. They knew I was a police
25 officer. I never tried to hide that.

1 Q. When did this happen that he ran into you in the
2 office?

3 A. I don't know.

4 Q. Do you have any recollection?

5 A. No.

6 Q. At the time that Reverend Moore saw you, was it
7 public knowledge that the police department had informants
8 in the Black United Front?

9 A. I don't think it would be public knowledge that they
10 had informants anywhere.

11 Q. You mentioned that you saw Mr. Pangburn at the FBI
12 building at one time. Did you and he speak on the telephone?

13 A. Yes. ---

14 Q. On more than one occasion?

15 A. Lots of occasions.

16 Q. About how often?

17 A. I don't know how often, but we talked -- for several
18 years before I met him.

19 Q. On a weekly basis would you say?

20 A. I don't know.

21 Q. In addition to receiving information from your
22 informants, were there other methods or techniques used to
23 your knowledge to collect information on either black groups
24 or antiwar groups?

25 A. Yes.

1 Q. What sort of methods?

2 A. We had officers who actually called the organization
3 and asked them certain questions.

4 Q. Any other methods?

5 A. That is the only method I used. I can't recall
6 ever calling, but I do know that some of the officers did.

7 Q. Were you aware of any other methods being used?

8 A. For instance?

9 Q. Were you ever aware of electronic surveillance being
10 conducted?

11 A. Yes, yes.

12 Q. Was this a method used to gather information on
13 black groups?

14 A. On any group, I guess. I never used it, but I
15 think they were used. In fact, I know they were used.

16 Q. Were you ever involved in either the installation
17 or monitoring of electronic surveillance devices?

18 A. Yes.

19 Q. On what sort of groups?

20 A. It was a black group that I was investigating.

21 Q. Were you ever involved in the installation or
22 monitoring of electronic surveillance devices for antiwar
23 groups?

24 A. No.

25 THE COURT: We will recess now until 1:45. You are

1 Q. Do you remember where it was specifically?

2 A. Yes.

3 Q. Where?

4 A. In the rear of the office.

5 Q. Is this in the Municipal Building?

6 A. Yes.

7 Q. Now, did there come a time when those files were
8 destroyed?

9 A. Yes.

10 Q. When was that?

11 A. I don't recall the date.

12 Q. Do you recall the year?

13 A. No.

14 Q. Did you participate in their destruction?

15 A. Yes

16 Q. How were they destroyed?

17 A. With a shredding machine.

18 Q. Was that done in the office or somewhere else?

19 A. In the office.

20 Q. Was this something that you did on your own
21 initiative, or were you directed to do this?

22 A. I was directed to do it.

23 Q. Do you recall who told you to shred the files?

24 A. Yes.

25 Q. Was it one of your superiors?

1 A. That's correct.

2 Q. Though you cannot remember the names, were there
3 other agents with whom you would exchange information in the
4 same general subject matter area?

5 A. Yes.

6 Q. In addition to the matter of agent Morrison and
7 one contact with Mr. Pangburn that was personal in nature,
8 were most of these communications telephone, or were you in
9 personal contact with some other agents on occasion?

10 A. By telephone.

11 Q. Most of them were by telephone?

12 A. Yes.

13 Q. How long were you the squad leader having respon-
14 sibilities, as you described it, for investigating certain
15 black groups?

16 A. From '70 through '76. At the beginning of '77, I
17 transferred to another branch.

18 Q. Can you recall at all what portion of that time
19 period you were dealing most frequently with Mr. Pangburn?

20 A. No, I cannot.

21 Q. Did there come a time in which you were dealing
22 with him more frequently -- I will strike that.

23 Did you know at that time how the Washington field
24 office of the FBI was organized with regard to -- particularly
25 with regard to the subject matter that you were interested in?

1 Q. (By Ms. Pilsbury) Mr. Zelloe, take a minute, if
2 you will, and look at the first page of that document, and
3 then page 8, and see if that refreshes your recollection as
4 to whether or not you ever photographed any documents.

5 A. You say page 8?

6 Q. Yes, I believe so.

7 A. Yes.

8 Q. Does that refresh your memory?

9 A. Yes, ma'am.

10 Q. Can you tell us now what you recall about that incident?

11 A. As far as I recall, I believe I was working a 4:00
12 to 12:00 tour of duty, working 4:00 p.m. to 12:00 midnight
13 tour of duty, and I was in the office and received a phone
14 call from Marcum stating that he had some material that he
15 thought was important. I can't recall whether I picked him
16 up -- I, myself -- met him on the street, or if I sent someone
17 to do it. But anyway, I believe when these certificates
18 came in the office, I believe I Xeroxed them -- Xeroxed them,
19 because if I took pictures of them, they would have had to be
20 developed, and that wasn't the case because I remember
21 putting them in the safe in the official's office, that they
22 would have them for the next morning.

23 Q. Did Marcum tell you where these stock certificates
24 had come from?

25 A. He just said he got them from 1029 Vermont.

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1 and other activities of these groups?

2 A. I don't recall any political investigations.

3 Q. What do you recall about what groups or individuals
4 you were investigating during 1970 to 1975; if you could just
5 generally categorize the types of individuals or groups that
6 attracted your interest?

7 A. Primarily we were interested in groups that posed
8 a threat to local or national security or any masses of
9 people that could change the complexity or stability of the
10 city.

11 Q. Could you give some examples of some groups that you
12 were responsible for gathering information on, if you can
13 recall any at this time?

14 A. The only one that stands at the back of my mind
15 that I can recall is the Black United Front and the Black
16 Panther Party.

17 Q. Do you recall whether or not you were assigned to
18 particularly cover black groups as opposed to other types of
19 groups?

20 A. I covered a segment of organizations which we
21 emphasized as black or emphasized as white. It was no specific
22 set segment of ethnic backgrounds that I covered.

23 Q. Did you cover antiwar groups?

24 A. It's possible.

25 Q. You don't recall?

1 A. No.

2 Q. Now, in connection with your investigation of the
3 Black United Front, or for that respect in connection with any investigation, do
4 you recall whether or not you had occasion to gather material
5 on Reginald Booker?

6 A. I may have.

7 Q. Can you remember?

8 A. There was an occasion in which I attended a press
9 conference in which Mr. Booker was there.

10 Q. Why were you attending the press conference?

11 A. It was given to me as an assignment.

12 Q. Had you had any interest in Mr. Booker prior to
13 the press conference?

14 A. If I received an assignment to attend a rally, if
15 he was at a rally, you may construe that to be an interest.

16 Q. Was he somebody that the Intelligence Division
17 was covering at that time?

18 A. No, he may have been a prominent speaker that
19 appeared at rallies for a particular organization or group
20 of organizations. I don't think he was singled out as an
21 individual.

22 Q. Why were you asked to go to this press conference?

23 A. To gather future intelligence on activities --
24 whatever group this individual represented.

25 Q. What was the press conference about, do you remember?

1 Q. Do you recall when that was?

2 A. Not the exact date or year.

3 Q. Were you told at the time the reason the files
4 were being shredded?

5 A. Was I told of the reason?

6 Q. Yes.

7 A. No.

8 Q. Did you have any knowledge of the reason?

9 A. No, I just had knowledge that they were being
10 shredded.

11 Q. Did it seem strange to you they were being shredded?

12 A. Considering some of the material that I knew
13 existed in the files, it didn't surprise me at all.

14 Q. What was it about some of the material in the files
15 that made you not surprised that the files were shredded?

16 A. Old and redundant.

17 Q. Was there material in the files that was of any
18 use to the police department?

19 A. I wasn't in a policy position to make that deter-
20 mination.

21 Q. Did you have anything to do with the shredding?
22 Did you have to do it?

23 A. I may have shredded some material.

24 Q. Do you recall how that worked? Was each officer told
25 to shred his own files, or did somebody have to go and shred

1 them all?

2 A. No, it may have been an incident in which an
3 official indicated that this material is no longer needed.

4 Q. Did you at that time save anything?

5 A. No.

6 MS. PILSBURY: I have no further questions of this
7 witness, Your Honor.

8 THE COURT: Cross examination, Mr. White?

9 MR. WHITE: We have no questions, Your Honor.

10 THE COURT: Mr. Barclay?

11 - - -

12 CROSS EXAMINATION

13 By Mr. Barclay:

14 Q. Officer, I have just a few questions.

15 You indicated on direct examination that you
16 attended a press conference at which Reginald Booker was
17 present and, I believe, spoke; is that correct?

18 A. Yes.

19 Q. Do you recall the year in which that press conference
20 was?

21 A. I don't recall a year.

22 Q. Do you recall the manner in which you attended --
23 was it in your uniform, plain clothes, undercover?

24 A. Plain clothes.

25 Q. Did you have a gun with you?

1 A. Yes.

2 Q. Were you recognized?

3 A. He challenged that I may have been an FBI agent or
4 some other government agent, and I identified myself as a
5 detective with the Metropolitan Police Department.

6 Q. When you say "he," are you referring to Reginald
7 Booker?

8 A. Correct.

9 Q. You indicated that you covered the Black United
10 Front during the years '71 to '73; is that correct?

11 A. Somewhere during that period.

12 Q. So would this incident have occurred sometime during
13 that period?

14 A. More than likely.

15 Q. Can you recall whether it was earlier during the
16 period or later?

17 A. I can't recall.

18 MR. BARCLAY: I have nothing further, Your Honor.

19 THE COURT: Any redirect?

20 MS. PILSBURY: No redirect, Your Honor.

21 THE COURT: Call your next witness.

22 MS. PILSBURY: Our next witness will be Officer John
23 W. Mahaney.

24

25

JOHN W. MAHANEY

1367

1 A. To attend demonstrations, to report back on the
2 information of any planned disruptions or anybody that may be
3 planning any type of illegal activity.

4 Q. In addition to attending demonstrations, would they
5 also be ordered to attend meetings?

6 MR. WHITE: Your Honor, I want to place on the
7 record an objection as to the relevancy of his testimony.
8 So far Officer Mahaney's activities have not been connected
9 to any of the plaintiffs.

10 THE COURT: To any plaintiff or any defendant?
11 Any plaintiff.

12 MR. WHITE: Well, any plaintiff is the point of
13 my objection.

14 THE COURT: Are you planning to tie this to the
15 plaintiffs?

16 MS. PILSBURY: Your Honor, I think that's a jury
17 question. He's testifying he was a control officer for
18 Ann Kolego and --

19 THE COURT: He denies having any knowledge about
20 these organizations.

21 MS. PILSBURY: No, Your Honor, I believe his
22 testimony was he did receive information on PCPJ.

23 THE COURT: Is that a plaintiff?

24 MS. PILSBURY: It's an organization that Mr. Pollock
25 testified he was active in.

1 THE COURT: Go ahead.

2 Q. (By Ms. Pilsbury) Now, I believe -- did I ask you
3 a question?

4 A. I don't recall.

5 Q. All right, I'll start again.

6 THE COURT: He answered a question. You asked him
7 what the sources were instructed to do, and they were
8 instructed to attend demonstrations and to furnish information
9 of planned disruptions.

10 MS. PILSBURY: Thank you, Your Honor.

11 Q. (By Ms. Pilsbury) Were they also instructed to
12 attend meetings?

13 A. Yes, ma'am.

14 Q. Were they given any limitations on methods for
15 obtaining information?

16 A. I don't know what you mean by limitations.

17 Q. Was there anything that you instructed your infor-
18 mants not to do?

19 A. Yes, ma'am.

20 Q. What?

21 A. Participate in any illegal activities, to in any
22 way become involved in an organization where they may be --
23 become a leadership role or make policy-making decisions in
24 that organization.

25 Q. You told them not to get into a leadership role?

1 don't intend to call her and put her on the stand cold. We
2 have been trying to locate her and take her deposition.

3 THE COURT: Well, you're going to put her on the
4 stand before you rest, and you will rest very soon.

5 MS. PILSBURY: Your Honor, obviously I am very
6 prejudiced if I have to put on a hostile witness without
7 being able to question them.

8 THE COURT: How come you didn't subpoena somebody
9 who was in the courtroom?

10 MS. PILSBURY: We -- the last information we had
11 from the District government on Ann Kolego was that she was
12 no longer employed there, she had moved to Wyoming.

13 THE COURT: Where did you get that information?

14 MS. PILSBURY: That was as recent as this summer,
15 I believe. We have had a request outstanding for her address
16 for I don't know how long.

17 THE COURT: You can interview her this afternoon
18 and put her on the stand tomorrow morning.

19 MS. PILSBURY: Fine. Thank you.

20 THE COURT: Call your witness.

21 Swear the witness.

22 I'm sorry, bring the jury back.

23 - - -

24 Whereupon, the following proceedings were had in
25 the presence and hearing of the jury:

- - -

CHRISTOPHER J. SCRAPPER

called for examination by counsel for the plaintiffs, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

By Ms. Pilsbury:

Q. Mr. Scrapper, would you please state your full name and present address?

A. Christopher J. Scrapper. I live at 12130 Folkstone Drive, Herndon, Virginia.

Q. Are you employed by the Metropolitan Police Department?

A. Yes, ma'am.

Q. How long have you worked for the police department?

A. Approximately 16 years.

Q. What is your rank now?

A. I am a sergeant.

Q. During that time were you assigned at any point to the Intelligence Division?

A. Yes, ma'am.

Q. When were you in Intelligence?

A. From May of 1969 until August of '73.

Q. And during that time what types of groups or individuals did you have occasion to gather intelligence on?

A. It varied.

1 Q. Can you give us some general categories?

2 A. New Left, some black, primarily New Left.

3 Q. Did you have occasion to investigate or gather
4 information on a group called the New Mobilization Committee?

5 A. Yes, ma'am.

6 Q. Did you investigate a group called PCPJ?

7 A. Yes, ma'am.

8 Q. Institute for Policy Studies?

9 A. Yes, ma'am.

10 Q. NPAC, N-P-A-C?

11 A. Yes, ma'am.

12 Q. And its local affiliate, WAPAC?

13 A. Yes, ma'am.

14 Q. Women's Strike for Peace?

15 A. Yes, ma'am.

16 Q. Washington Peace Center?

17 A. Yes, ma'am.

18 Q. Would you also gather information on the individuals
19 active in those groups?

20 A. Yes, ma'am -- in reference to -- if we looked at
21 the activities of an organization, and a name came up.

22 Q. Okay, I'm going to ask you about some specific
23 individuals and ask you whether you recall their names coming
24 up.

25 In connection with PCPJ, Richard Pollock?

1 A. Yes, ma'am.

2 Q. In connection with IPS, Arthur Waskow?

3 A. Yes, ma'am.

4 Q. Do you recall his name coming up independent of
5 IPS?

6 A. Yes, ma'am.

7 Q. In connection with what, if you can recall?

8 A. PCPJ.

9 Q. Abe Bloom?

10 A. Yes, ma'am.

11 Q. Can you recall if his name came up as an individual
12 or in connection with a particular group?

13 A. The New Mobe.

14 Q. How about a group called ECTC?

15 A. I recall the name.

16 Q. Do you recall an individual named Sammie Abbott?

17 A. Yes, ma'am.

18 Q. Individually or in connection with that group?

19 A. In connection with that group.

20 Q. How about Reginald Booker?

21 A. Yes, ma'am.

22 Q. Did you ever have occasion to gather any information
23 on Tina Hobson?

24 A. I am aware of the name. I do not know whether she
25 was active in any organization, took any type of role as far

1 as speaking or anything like that.

2 Q. If she had spoken at a demonstration, would --

3 A. Then her name would have come to our attention.

4 Q. How about the Washington Peace Center?

5 A. Yes, ma'am.

6 THE COURT: You asked that question.

7 MS. PILSBURY: I'm sorry.

8 Q. (By Ms. Pilsbury) Now, in reference to all of
9 these individuals and groups, can you describe in general
10 how you would gather information on them?

11 A. We gathered information from a variety of sources:
12 Open source material, sources of undercover and special
13 employee sources, liaison with other government, state and
14 local police departments.

15 Q. Did you work closely with members of the FBI?

16 A. Yes, ma'am.

17 Q. Now, you have indicated you were first assigned
18 to Intelligence in May of 1969. Do you recall if you worked
19 closely with FBI officials at that time, or did it occur
20 later on?

21 A. I do not recall.

22 Q. Which FBI people in particular did you have contact
23 with?

24 A. At what time now?

25 Q. Any time that you recall during this period, May of

1 '69 through August of '73.

2 A. There were quite a few.

3 Q. Can you remember any of their names?

4 A. Yes, ma'am.

5 Q. Can you indicate what their names were?

6 A. Joe Mahoney --

7 Q. Just the ones you had the most contact with.

8 A. Joe Mahoney, Jerry Grimaldi.

9 Q. Are they the two main ones?

10 A. They are the two that stick in my mind.

11 Q. What would be the nature of your relationship with
12 them?

13 A. We would exchange information on organizations that
14 we were mutually interested in.

15 Q. Was this a formal or informal type of exchange?

16 A. I am not sure I understand your question.

17 Q. Would they meet you on the street, call you up on
18 the telephone, or would it have to go through some sort of
19 office procedure?

20 A. We would call each other. We would see each other.

21 Q. Did you know what FBI people were interested in your
22 groups and vice versa?

23 A. Yes, ma'am.

24 Q. Do you know whether they had informants in groups
25 that you were investigating?

1 A. I have no direct knowledge.

2 Q. Did you identify for them your informants?

3 A. No, ma'am.

4 Q. What was your understanding at the time of May '69
5 through August '73 of the nature of the FBI's interest in
6 these groups and individuals?

7 A. Could you repeat that, please, I am not sure
8 exactly what you are driving at.

9 Q. What was your understanding of the nature of the
10 FBI's interest, or the reason for the FBI's interest, in
11 these groups and individuals?

12 A. They were interested in organizations that were
13 planning disruptive activities, terrorism. They were interested
14 in any type of international contact that these organizations
15 received from people overseas.

16 Q. Did you ever have any reason to believe that the
17 FBI was interested in disrupting groups?

18 A. No, ma'am.

19 Q. Did you ever know them to do anything that was
20 disruptive of the groups' activities?

21 A. No, ma'am.

22 Q. Now, in addition to gathering information from
23 informants and other sources, did you also conduct electronic
24 surveillance of these groups and individuals?

25 A. Yes, ma'am.

1 Q. Was there electronic surveillance of PCPJ or PCPJ
2 activities?

3 A. I cannot tell you whether it was directed primarily
4 at PCPJ. I cannot give you a definite group it was directed
5 at.

6 THE COURT: I'm sorry, I didn't hear the question.

7 MS. PILSBURY: I asked him whether or not he knew
8 if there was electronic surveillance of PCPJ or PCPJ
9 activities.

10 THE COURT: Maintained by whom?

11 Q. (By Ms. Pilsbury) Do you recall --

12 THE COURT: Maintained by whom? Did you ask him
13 who was maintaining --

14 MS. PILSBURY: No, I didn't, but he answered he
15 didn't know.

16 Q. (By Ms. Pilsbury) Do you know whether or not there
17 was any electronic surveillance by either the District
18 government or the FBI of activities or meetings of the New
19 Mobilization Committee?

20 A. Again, I am not sure exactly which organization.
21 I have a difficulty identifying New Mobe and PCPJ. It is
22 my understanding and my recollection that these two organiza-
23 tions were a coalition of several different groups.

24 Q. Was there electronic surveillance by the District
25 government of places or meetings of these coalitions?

1 A. Yes, ma'am.

2 Q. And these would include groups planning lawful
3 demonstrations as well as groups that you suspected might
4 engage in violence?

5 A. We were looking for the illegal activities.

6 Q. Was your surveillance limited to groups that you
7 suspected of illegal activity?

8 A. We had a reasonable suspicion to believe that they
9 were engaging in some type of disruptive activity, yes, ma'am.

10 Q. Did you participate in the installation or monitoring
11 of any of these electronic surveillances?

12 A. On occasion monitoring.

13 Q. You never participated in the installation?

14 A. No, ma'am.

15 Q. Do you know how many -- if there was more than
16 one -- separate installations you participated in the
17 monitoring of that were directed at antiwar groups?

18 A. That I participated in?

19 Q. Yes.

20 A. There was one.

21 Q. Just one?

22 A. Yes, ma'am.

23 Q. In connection with this monitoring, can you put a
24 point in time on this? Do you recall approximately when this
25 was?

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 JULIUS HOBSON, et al., :

4 Plaintiff, :

5 v. : CA No. 76-1326

6 JERRY WILSON, et al., :

7 Defendant. :

8 Washington, D. C.

9 Wednesday, December 9, 1981

10
11 The above-entitled matter came on for trial before
12 the HONORABLE LOUIS F. OBERDORFER, United States District
13 Court Judge, in Courtroom No. 3.

14 APPEARANCES:

15 On Behalf of the Plaintiffs:

16 DANIEL M. SCHEMBER, ESQ.

17 J. E. McNEIL, ESQ.

18 ANNE PILSBURY, ESQ.

19 On Behalf of the Federal Defendants:

20 DAVID WHITE, ESQ.

21 DENNIS HOFFMAN, ESQ.

22 On Behalf of District of Columbia Defendants:

23 LAURA BONN, ESQ.

24 GEORGE BARCLAY, ESQ.

25 Official Reporter: Bruce W. Herzfeld

1 Federal defendants who are sued for damages, and also on
2 behalf of Director William H. Webster, who is sued in his
3 official capacity, I move for directed verdict.

4 I would like to say prior to presenting argument
5 that any concessions made during the course of this motion
6 are for purposes of the motion only.

7 THE COURT: Of course.

8 MR. WHITE: The first item, Your Honor, is with
9 regard to the issue of injunctive relief against the director
10 of the FBI. The complaint itself prays only for injunctive
11 relief relating to disposition of files. There is no prayer
12 for injunctive relief relating to FBI activities or any sort
13 of activity unrelated to the disposition of files.

14 In addition, in order to be entitled to injunctive
15 relief, plaintiffs must show that there is present activity
16 or danger of activity in the future that is substantiated by
17 evidence for which an injunction would be necessary, and there
18 has been no evidence indicating that those things that they
19 complained of are continuing, or that there is any present
20 danger that they would be reenacted or would reoccur.
21 Consequently, we would believe we are entitled to a verdict
22 in favor of the director on the matter of the injunctive
23 relief.

24 THE COURT: I wouldn't be putting that to the jury
25 anyway.

1 MR. WHITE: That's correct, Your Honor.

2 THE COURT: It is not a verdict. I suppose what
3 you want is a judgment.

4 MR. WHITE: It would be a dismissal or a resolution
5 or judgment in favor of Director Webster in his official
6 capacity.

7 Now, going, sir, Your Honor, to the damage action
8 against the five individual defendants, we first contend that
9 the plaintiffs have not established relief from the statute of
10 limitations. The pretrial order, paragraph 2 -- Roman
11 numeral II, paragraph 3, states that it is a burden of the
12 plaintiffs to establish fraudulent or deliberate concealment,
13 and also to establish due diligence. The plaintiffs have
14 not established, one, that the individual defendants had a
15 duty to disclose information to them which would be relevant
16 to their cause of action, nor have they established any
17 affirmative act of concealment by any of the individual
18 defendants.

19 Finally, with regard to due diligence, not only have
20 they not proved that they undertook at any time to bring the
21 action before the Court, but they have presented facts which
22 show affirmatively that they had facts available to them, but
23 did not pursue any means to discover or to then use those facts
24 to bring this action before the Court in timely fashion.

25 In particular, with regard to that, I believe it

1 would be appropriate to simply summarize some of the testimony
2 of the plaintiffs relating to what they knew or suspected
3 or had evidence of prior to July 16, 1973. This includes from
4 Plaintiff Pollock evidence, his testimony, indicating that he
5 was aware or believed that he was being subjected to physical
6 surveillance outside of his home in 1970 and '71. He believed
7 he was being followed to West Virginia in 1971. He was
8 interviewed in February of 1973, and he now contends that is
9 a matter which caused him injury.

10 He also testified that he was aware of events which
11 led him to believe that he was the subject of electronic
12 surveillance, and he was aware of those events in 1971 and '72.

13 Mr. Booker testified that he was subjected to
14 interviews which he now claims -- well, he didn't claim
15 injury, but he testified concerning them -- which occurred
16 in 1969 and April of 1972. He also claims to have been
17 aware in the '60s of an investigation by the FBI while he
18 was employed at the Government Services Administration.

19 THE COURT: When was that?

20 MR. WHITE: In the late '60s. I don't know the
21 year precisely, but my recollection is '68, '67 or '68.

22 He also testified that he was aware of disclosures
23 made by ex-Special Agent Robert Wall, which were published
24 in the winter of 1972.

25 Plaintiff Abbott testified as to being interviewed

1 by an agent or being -- I believe he used the word "accosted"
2 by an agent by the name of Phillip Wilson in the late '60s
3 and early '70s before Mr. Wilson's death. He also testified
4 as to his knowledge of the disclosures made by Robert Wall
5 in 1972, and he also stated his source of beliefs regarding
6 electronic surveillance, and he testified that he based those
7 beliefs on events and occurrences that occurred in 1969, '70,
8 and '71.

9 Plaintiff Waskow also testified that he was aware
10 of the disclosures by Wall, and, in fact, talked to Mr. Wall
11 during that time period. It is not definite, but he
12 testified it was about the time that the publication was
13 made, which was in 1972. He also testified that a Robert
14 Merrit made disclosures to him relating to his activities
15 on behalf of the Metropolitan Police Department. He alleged
16 that during the course of this case -- he's alleged that those
17 Merrit disclosures also related to the FBI, though he did
18 not testify to that effect at trial. He testified at trial
19 that when he was told of those things, which would have been
20 approximately in '71 and '72, according to his testimony,
21 he did not believe it. However, his deposition testimony was
22 conclusive that he did, in fact, believe it and had good
23 reason to believe Merrit's remarks to him.

24 Plaintiff Bloom testified also that he was aware
25 of the Wall disclosures, and he also testified that he

1 suspected in 1969 that one Steven Wilcox was in informant.

2 I might add, with regard to Plaintiff Bloom, that
3 his testimony was that he was aware, because of the Wall
4 disclosures in 1972, that the FBI might have had some
5 involvement in the so-called head tax controversy, however he
6 did not decide to bring any action regarding that until he
7 saw an article which related to the CIA in 1974, and his
8 response to that was to make a Freedom of Information Act
9 request in December of '75, demonstrating a clear lack of
10 due diligence in bringing the matter to court.

11 Mrs. Hobson's testimony was -- at her deposition
12 was that as long ago as 1969, she was considering bringing
13 suit, but did not decide to bring suit until 1976 because it
14 was one of their -- it was just one of the matters on their
15 list of priorities, and they just finally got down to that
16 item to bring suit. The deposition testimony was introduced
17 for purposes of refreshing her recollection. She did not
18 testify to that effect on direct examination.

19 With regard -- that basically, Your Honor, concludes
20 my argument on the statute of limitations for the entire case.
21 We have particular aspects of the statute of limitations
22 relating to particular issues which we believe -- even if
23 we don't prevail on this omnibus motion, there are certain
24 events which are excluded because of the statute of limitations.
25 These include, Your Honor, the interview which Plaintiff

1 Pollock described that occurred in February of 1973, an
2 interview being conducted by two agents who are not defendants
3 in this case.

4 Plaintiff Booker testified regarding two encounters
5 with FBI agents, one in 1969. The identify is disclosed in
6 a document which is in the record of the case, but there was
7 no testimony as to who the agent was. He is not a defendant
8 in any event.

9 He also testified regarding an encounter with Defendant
10 Pangburn which occurred in April of 1972. I might add on this
11 point that defendant Pangburn was not made a defendant in this
12 case until December of 1977.

13 The third issue is the issue of whether or not the
14 FBI or more particularly the defendants were involved in some
15 wrongful way in the so-called head tax controversy between
16 the Black United Front and the National Mobilization Committee
17 in 1969. Four plaintiffs testified that they were familiar
18 with the articles by ex-Special Agent Wall. That article
19 was, according to their testimony, the basis for their belief
20 that the FBI was involved in that controversy. The article
21 was published -- series of articles was published in January,
22 and then in March of 1972, clearly putting them on notice
23 more than four years prior to the initiation of this case
24 that there was possible involvement of the FBI in that matter.
25 though the article does not disclose the role of any individual

1 defendant or any individual agent.

2 In addition, there is the matter of the interviews
3 of Plaintiff Abbott. It is frankly not clear to me whether
4 he is complaining about those interviews, whether it is an
5 element of his cause of action. However, he testified that
6 they occurred in the late '60s, '71, and he did testify
7 regarding his feelings in connection with the interview. If
8 they are part of his cause of action against these defendants,
9 they are excluded, or he is precluded from bringing them, because
10 of the statute of limitations.

11 Your Honor, going now to a different subject, on .
12 the question of the allegations of a conspiracy. The plaintiffs
13 allege two or three types of conspiracies. Apparently --
14 frankly I do not believe the evidence demonstrates what kind
15 of conspiracy it is that they want to try to establish,
16 however if I could get at it this way: First they allege there
17 is some kind of conspiracy between the Metropolitan Police
18 Department defendants and the FBI defendants. The evidence
19 that has been introduced shows only that there was an exchange
20 of information between the two agencies. There had been no
21 clear evidence that all the defendants were involved in it
22 or that that information related necessarily to the plaintiffs.
23 In any event, the exchange of information is not evidence of
24 a conspiracy, and is, in fact, a proper law enforcement
25 function.

1 proposed press releases were prepared in the Racial Intelli-
2 gence Section at FBI headquarters and forwarded through the
3 FBI bureaucracy to that part of the FBI headquarters which
4 was responsible for contacts with the press.

5 The Defendant Moore's initials and his approval
6 does appear on at least one of those documents.

7 We would move to exclude that from the case, however,
8 on the grounds that no plaintiff has alleged injury as a
9 result of that activity.

10 Plaintiff Eaton did allege and describe his
11 relationship to the Poor People's Campaign, but he did not
12 testify that his activity in carrying out his role in the Poor
13 People's Campaign was impeded or interfered with. He testified
14 as to no injury whatsoever and did not even, by indirection
15 or implication, allude to possible interference because of
16 the possible publication of those three items.

17 Your Honor, with regard to two items, I feel it is
18 necessary for us not only to move for directed verdict, but
19 to place before the Court a motion for mistrial. The first
20 relates to the evidence relating to one Steven Wilcox. There
21 was testimony by several plaintiffs including Plaintiff
22 Bloom and -- I can't recall now another plaintiff, but there
23 were two witnesses: Mr. Peck, Mrs. Gurewitz, and Don
24 Gurewitz, all of whom testified about Steve Wilcox, and all
25 of whom speculated or at least implied that Mr. Wilcox was

1 working on behalf or at the direction of some other entity,
2 the heavy implication being that it was the FBI and the
3 individual Federal defendants. There was, however, no
4 evidence other than their speculation and conjecture that
5 Mr. Wilcox was, in fact, an informant or working on behalf of
6 the Federal defendants.

7 There is also the issue of the letter, which was
8 placed in evidence as Exhibit Number 17, presumably written,
9 or the face of the letter shows that it was written, by
10 Reverend Moore to Plaintiff Abe Bloom. The testimony --
11 this letter, Your Honor, related to the --

12 THE COURT: Are you talking about the gangsters?

13 MR. WHITE: This letter was the one that related
14 to the issue of the head tax demand, the Black United
15 Front's demand, for money from the National Mobilization
16 Committee --

17 THE COURT: This isn't the one about narcotics?

18 MR. WHITE: It is not that letter, Your Honor.
19 There is no such letter in evidence -- that is, in documentary
20 evidence. There has been testimony about such a letter that
21 you referred to.

22 THE COURT: Right.

23 MR. WHITE: But Exhibit 17 relates to a demand by
24 Reverend Moore to the National Mobilization Committee for
25 money from the Committee to insure support of the Black United

1 Front for that demonstration. There has been no evidence
2 connecting that letter to any FBI activity, and particularly
3 no evidence connecting it to any of the individual defendants.
4 There were, in fact, no questions posed to the individual
5 defendants when they were on the stand as to whether they
6 knew anything about the letter.

7 There were, however, innuendo and implications
8 and conjecture that that letter was the product of the FBI.
9 There was, however, no evidence to support that contention,
10 and consequently I believe that on that issue as well as
11 the Wilcox issue, there has been an effect, if not the
12 intent, to mislead the jury about those two matters. I
13 believe we are entitled at a minimum to a direction of
14 verdict or judgment in our favor, and potentially we are entitled
15 to a mistrial on those issues. At least I feel that it's
16 appropriate to make those motions for the purposes of the
17 record.

18 THE COURT: Do you have much more?

19 MR. WHITE: Your Honor, the only thing finally I
20 have is revisiting in a way the matter of injury. No
21 plaintiff testified of any interference with the right to
22 speak or to write, and the -- there was no evidence connecting
23 any defendant to the allegation of interference with the
24 right of association.

25 THE COURT: Do you want to confer?

1 I believe even when the informant was not present in the house,
2 the electronic surveillance would be lawful --

3 THE COURT: My simple question is if you have any
4 authority?

5 MS. BONN: I believe we don't, we simply rely on
6 the Hoffa case. That was the next point I was going to
7 address; the use of electronic surveillance by the Metro-
8 politan Police Department. I think that would go hand in
9 hand with our immunity defense.

10 However, we do feel, and it's the District of
11 Columbia defendants' position that the use of electronic
12 surveillance was done on a consensual one-party basis, and
13 that we did not feel that there was any reliance that was
14 placed on anyone entering an informant's house was analagous
15 to a Hoffa situation and misplaced. That consent would flow
16 not only to the informant when she was present, but to the
17 premises.

18 Your Honor, we also would ask for a mistrial with
19 respect to the information elicited from several witnesses
20 with respect to Steven Wilcox. Plaintiffs have not tied up
21 Steven Wilcox with the District of Columbia or the FBI.
22 Specifically with the District of Columbia, they never even
23 asked any of the defendants when they took the stand if, in
24 fact, Steven Wilcox was an employee. I realize the privilege
25 would bind them from any other questions. At least, Your Honor,

1 if we could not have a mistrial, we would ask that the record
2 with respect to Steven Wilcox be stricken since his actions
3 have not been attributed to either party, either defendants
4 in this case.

5 Your Honor, we would also make the same request with
6 respect to the evidence of 1029 Vermont Avenue, N.W. The
7 evidence with respect to 1029 was -- 1029 Vermont Avenue, N.W.
8 has not been tied in with any specific plaintiff. 1029
9 Vermont Avenue, N.W. housed offices of many antiwar groups.
10 I asked each plaintiff when they took the stand if they were
11 aware of an alleged breakin into 1029 Vermont Avenue. None
12 of them were. The closest any plaintiff came to any knowledge
13 was Abe Bloom, but he had no direct knowledge, he had heard
14 from someone.

15 No plaintiff was injured at all by the breakin at
16 1029 Vermont Avenue or the surreptitious entry at 1029. No
17 plaintiff has claimed any property interest in the desk where
18 the box was removed or the box. That information standing
19 alone without any plaintiff's claim of interest or damage
20 from it is highly prejudicial to the District of Columbia
21 defendants, and we would ask that that be stricken from this
22 case since it has not been tied up to any of the plaintiffs
23 or in the alternative ask for a mistrial on that issue.

24 Your Honor, for the record we would renew our
25 objection with respect to the District of Columbia being

1 out. And Mr. Wall at that time was a subordinate of Mr.
2 Jones. And the action initiated by the New York field
3 office, approved by FBI headquarters, and implemented in
4 part by subordinates of Mr. Jones in the Washington field
5 office, these all were acts that were consistent with the
6 purpose of the counterintelligence program as understood by
7 all the defendants, and it is not necessary that the finger-
8 prints of each defendant be on a specific act in furtherance
9 of that program in order for them to be held liable for it.

10 We are dealing here with an incredible event: A
11 large conspiracy, a massive Bivens tort implemented nationwide,
12 and sometimes it is difficult to realize that, in fact, such
13 an entire agency of the federal government was involved
14 nationwide in this kind of activity.

15 Under the law of civil conspiracy, in theory all
16 the acts of all the agents involved in this program can be
17 laid at the doorstep of FBI headquarters and, in theory,
18 the other agents. We haven't presented such a case. We've
19 confined it as a practical matter.

20 THE COURT: You have only named in the category
21 of other agents, other agents at the Washington field office.
22 You haven't named other agents at the national headquarters.
23 You haven't named other agents at the New York field office.
24 How do you deal with that?

25 MR. SCHEMBER: That's a legal question whether a

1 Part of the material -- I don't know which they
2 are going to read to you first -- are statements made by a
3 Senate committee, or Senate committee staff members, in
4 1976. These statements are what the Senate or the staff
5 thought about something. They are to be taken with you -- by
6 you as just another witness -- as if it was another witness
7 testifying. They are not binding on you. You don't have
8 to believe it. If the defendants offer testimony to contradict
9 it, you give what the Senate said and what the witnesses say
10 such weight as you in your judgment and experience consider
11 the material to be entitled.

12 I will instruct you further at the conclusion of
13 the case about evaluation of testimony, but this is just some
14 more evidence. It is not conclusive by any manner or means.

15 Then you will be read some statements made by
16 witnesses who are not here now, but who testified before a
17 police department hearing or investigation several years ago.
18 Those statements must be understood by you as merely evidence,
19 as being something you could listen to, but you must also
20 recognize that these statements were not made in circum-
21 stances like the statements you heard here where the other
22 side could cross examine. You have to take that into account
23 in appraising, and evaluating, and, if you will, discounting
24 the probative -- the weight to which you give -- which you
25 give to these things.

See Symp. III at
this point.

Note:

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Okeson, Spiker, Marceon

1 "Question: I just want to add, to this day,
2 right now, do you know what constitutes a legal one-
3 party consent?

4 "Answer: No, no, I don't, and --

5 "Question: Has anybody ever explained it to
6 you?

7 "Answer: No."

8 That concludes the Okeson statement, Your Honor.

9 THE COURT: Very well.

10 Mr. Schember?

11 MR. SCHEMBER: Thank you, Your Honor.

12 Ladies and gentlemen, the next material I am going
13 to read to you are excerpts from the final report of the
14 select committee to study governmental operations with
15 respect to intelligence activities. U. S. Senate, April 23,
16 1976:

17 "COINTELPRO: The FBI's Covert Action Programs
18 Against American Citizens.

19 "This report is based on a staff study of more
20 than 20,000 pages of Bureau documents; depositions
21 of many of the Bureau agents involved in the programs,
22 and interviews of several COINTELPRO targets.

23 "'Counterintelligence Program': A Misnomer for
24 Domestic Covert Action:

25 "COINTELPRO is an acronym for 'counterintelligence

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 JULIUS HOBSON, et al., :
4 Plaintiff, :
5 v. : CA No. 76-1326
6 JERRY WILSON, et al., :
7 Defendant. : VOL. 4

8 Washington, D. C.

9 Thursday, December 10, 1981

10
11 The above-entitled matter came on for trial before
12 the HONORABLE LOUIS F. OBERDORFER, United States District
13 Court Judge, in Courtroom No. 3.

14 APPEARANCES:

15 On Behalf of the Plaintiffs:

16 DANIEL M. SCHEMBER, ESQ.
17 J. E. McNEIL, ESQ.
18 ANNE PILSBURY, ESQ.

19 On Behalf of the Federal Defendants:

20 DAVID WHITE, ESQ.
21 DENNIS HOFFMAN, ESQ.

22 On Behalf of District of Columbia Defendants:

23 LAURA BONN, ESQ.
24 GEORGE BARCLAY, ESQ.

25 Official Reporter: Bruce W. Herzfeld

1 The Federal defendants would recall to the stand
2 Philip Mostrom.

3 - - -

4 PHILIP MOSTROM

5 recalled as a witness on behalf of the Federal defendants,
6 and having been previously duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. White:

9 Q. Would you identify yourself for the jury, please?

10 A. I am Special Agent Philip E. Mostrom, assigned to
11 the Federal Bureau of Investigation headquarters.

12 Q. Now, Mr. Mostrom, you have previously testified,
13 but in order to help the jury recall your position, would
14 you briefly describe your duties at the FBI headquarters?

15 A. Yes, sir. I am assigned to a unit called Civil
16 Discovery Review Unit-Number 2, which in turn is part of the
17 Records Management Division at headquarters. As such I deal
18 with discovery, production of documents, interrogatories and
19 whatnot in the early stages of civil cases.

20 Q. Mr. Mostrom, I would like to show you a document
21 previously entered into evidence, document 17. Would you
22 briefly describe that document to the jury, please?

23 A. Sir, it is a letter apparently addressed to Mr.
24 Abraham Bloom, Silver Spring, Maryland. It's undated,
25 representing the Black United Front's appeal for a contribution

1 of \$25,000 and signed, or a typed signature, of Reverend
2 Moore.

3 Q. Mr. Mostrom, have you been given an assignment
4 relative to your present duties with regard to this letter?

5 A. Yes, sir, I have.

6 Q. And would you describe what the nature of that
7 assignment was?

8 A. The nature of my assignment was to try and locate
9 in FBI headquarters files the copy or mention of this
10 particular letter.

11 Q. Did you have occasion then to examine certain files
12 in connection with this assignment?

13 A. Yes, sir, I have.

14 Q. Did you personally examine these files?

15 A. I personally examined these files, that is correct.

16 Q. Which files did you examine, sir?

17 A. In this particular letter, I examined the
18 COINTELPRO New Left; I examined the COINTELPRO Black Nationalist
19 Hate Groups files at FBI headquarters.

20 Q. Did you also examine the Washington field office
21 files relating to those two categories?

22 A. Yes, I did.

23 Q. In your examination, what did you find with regard
24 to this letter?

25 A. Sir, I have never been able to find any copy in any

1 files of this letter.

2 Q. Based upon your review, were you able to draw a
3 conclusion as to whether this letter was a product or was
4 produced by any FBI agent?

5 A. I would have to conclude it never was produced by
6 the FBI, sir.

7 Q. Thank you, Mr. Mostrom.

8 Now, have you -- to go on to another subject --
9 have you heard the name Steve or Steven Wilcox?

10 A. Yes, sir, I have.

11 Q. Have you been given an assignment in connection
12 with your present duties regarding the name of Steve or
13 Steven Wilcox?

14 A. I have.

15 MR. SCHEMBER: Objection, Your Honor. May we
16 approach the bench?

17 - - -

18 Whereupon, the following proceedings were had at
19 the bench:

20 MR. SCHEMBER: Your Honor, I am going to object
21 to any inquiry designed to elicit the fact that Mr. Steve
22 Wilcox is not indicated as an informant in FBI files. In
23 light of the posture of this case, it is manifestly unfair
24 for Federal defendants to selectively release the identification
25 of informants to further their case when they have steadfastly

1 opposed any identification of informants we have sought.

2 MR. WHITE: They have put evidence on tending to
3 lead the jury to believe that Mr. Wilcox was an informant.
4 Mr. Mostrom's testimony will be that he made a search regarding
5 that issue, and he will give testimony as to whether
6 plaintiffs have ever requested --

7 THE COURT: The first objection as to the first
8 line of questions is overruled. The objection to the second
9 line of questions is sustained. I don't think you want to
10 get into a contest about whether they inquired about it or
11 not, considering all the obstacles that were placed in the
12 path by you and the co-defendant.

13 MR. WHITE: I must respectfully disagree with the
14 characterization of an obstacle. It was entirely within
15 their right and within their opportunity to make a request
16 regarding Mr. Wilcox.

17 THE COURT: It would have been fruitless, and I
18 don't want you to make an issue of that. You are entitled
19 to prove if you can that he is not an informant. They raise
20 the issue, and you can respond. Their limitations on
21 discovery are just a part of life.

22 MR. WHITE: Yes, Your Honor.

23 MR. SCHEMBER: Our objection is on the record.

24 THE COURT: Okay.

25 - - -

1 Whereupon, the following proceedings were had in
2 open court:

3 Q. (By Mr. White) Mr. Mostrom, I believe the
4 question was whether you had received an assignment in
5 connection with your present duty regarding the name Steve
6 or Steven Wilcox.

7 A. Yes, sir, I received that assignment.

8 Q. What was the nature of that assignment?

9 A. To try to locate any indication that one Steve
10 Wilcox had been an FBI informant, sir.

11 Q. When did you receive this assignment, Mr. Mostrom?

12 A. Sometime either in the middle or late last week.

13 Q. What did you do in carrying out this assignment?

14 A. I caused a search to be made of the indices, the
15 central indices, of both FBI headquarters and the Washington
16 field office, utilizing the commonly known spellings of
17 Steven, Steve, and Wilcox, to try to locate mention of same.

18 Q. Did you find any reference to the name Steve
19 Wilcox in this search?

20 A. Yes, I did.

21 Q. What was the nature of that reference and the
22 nature -- well, would you describe first the nature of the
23 reference?

24 A. The nature of the reference which I could determine
25 was identifiable with the Steve Wilcox that I was looking for

1 was a file in the Washington field office. It was a Security
2 Matter - Anarchist file concerning one Steve Wilcox and his
3 employment or his work in connection with the National
4 Mobilization Committee located at 1029 Vermont Avenue, N.W.

5 Q. Was there any indication -- well, I beg your
6 pardon. What kind of file or indication, if any, would have
7 existed if Mr. Wilcox were an informant for the FBI, or
8 anyone for that matter were an informant?

9 A. There would have been either a file at Washington
10 field office under the Security Informant, or Criminal
11 Informant, or Racial or Ghetto Informant categories, or a
12 file at headquarters under those same categories.

13 Q. Do those categories comprise all the categories
14 which would exist relative to the matter of a person being
15 an informant?

16 A. To my knowledge, yes, sir.

17 Q. Did you find any indication that -- well, having
18 examined those files, did you arrive at a conclusion as to
19 whether Mr. Wilcox had been an informant for the FBI?

20 A. Having examined the files and the results of the
21 indices check, I must conclude that no Steve Wilcox was ever
22 a paid informant for the FBI.

23 MR. WHITE: I have no further questions, Your Honor.

24 THE COURT: Cross examination?

25 - - -

CROSS EXAMINATION

1
2 By Mr. Schember:

3 Q. Mr. Mostrom, Mr. White asked you whether you could
4 tell whether Steve Wilcox was an informant for the FBI or
5 anyone else. How could you tell whether he was an informant
6 for anyone else?

7 A. I could not, sir.

8 Q. You also testified that FBI files revealed that
9 he was not a paid informant; is that correct?

10 A. That is correct.

11 Q. Did the files indicate whether he was an unpaid
12 informant?

13 A. There would have been a file in the Washington
14 field office even if he was an unpaid informant.

15 Q. Would there have been such a file if he had been
16 a source?

17 A. If he had been a source for another office and had
18 been sent to Washington, D.C., there should have been some
19 mention in the Washington field office files.

20 Q. Did the Washington field office files keep a
21 record of bankers, and landlords, and other persons who were
22 classified as confidential sources, who provided information
23 on an infrequent basis?

24 A. In those categories, they would, sir, yes.

25 Q. You searched those files?

1 A. I had them searched, that's correct.

2 Q. Mr. Mostrom, have you heard of the FBI term "do
3 not file procedures"?

4 A. I am not aware of it.

5 Q. During the course of your work in the FBI, did
6 you ever discover or did you ever hear any information that
7 it was a practice of the FBI not to file some information
8 that came to the FBI's attention?

9 A. Certainly no official practice, no.

10 Q. Have you ever received any information that it was
11 an unofficial practice of the FBI not to file certain
12 information?

13 A. I can't recall any, no.

14 Q. Is it the practice of the FBI to keep lists of the
15 names of sources of agencies other than the FBI?

16 A. No, sir, not that I know of.

17 MR. SCHEMBER: Nothing further.

18 MR. WHITE: I have no questions, Your Honor.

19 THE COURT: Redirect?

20 MR. WHITE: We have no questions, Your Honor.

21 THE COURT: Next witness?

22 MR. WHITE: We would now call Gerould T. Pangburn --
23 Gerould W. Pangburn, Your Honor.

24 - - -

25 GEROULD W. PANGBURN

1 A. Yes, sir.

2 Q. When were you assigned to that squad?

3 A. To the best of my recollection I was assigned to
4 that squad in early 1968.

5 Q. What was the general function of mission of that
6 squad, its general investigative purpose?

7 A. At that time the squad handled investigations
8 concerning domestic type groups, New Left groups, and
9 racial extremist groups.

10 Q. What was generally the nature of your assignments
11 in that squad?

12 A. During the entire time I was on that squad, I
13 handled racial extremist types of investigations.

14 Q. How long did you remain on the squad S-7?

15 A. I was on the squad until late in '68 when we had
16 a reorganization in the office, and I was transferred to
17 another squad.

18 Q. To what squad were you transferred?

19 A. To S-5.

20 Q. Did the nature of your responsibilities and duties
21 change upon that transfer?

22 A. No, they did not.

23 Q. What generally, then, was the function or the
24 investigative jurisdiction of squad S-5?

25 A. S-5 squad handled investigation of racial extremist

1 matters.

2 Q. Did this include investigations only of persons
3 of one race?

4 A. No, we had the responsibility for investigating
5 organizations such as the Klu Klux Klan, the American Nazi
6 Party, and -- involving investigations of people of all
7 races.

8 Q. You also investigated, or the squad investigated,
9 then, also black groups and individuals?

10 A. Yes, sir.

11 Q. Mr. Pangburn, are you familiar with the name of
12 Reginald Booker?

13 A. Yes, sir.

14 Q. Was there ever an occasion in which you met with
15 Mr. Booker?

16 A. Yes, sir.

17 Q. To the best of your recollection, could you -- to
18 the best of your recollection and ability would you describe,
19 please, the time and the circumstances in which you met Mr.
20 Booker?

21 A. By the time --

22 Q. Do you recall what time --

23 A. During the day, you mean?

24 Q. The date approximately, if you can.

25 A. It occurred after the reorganization -- it was

1 while I was on squad S-5, so it must have been after late
2 '68, about '69 or '70, perhaps even later.

3 Q. Would you describe for the jury, please, what
4 occurred on that occasion?

5 A. On that occasion I was across the street from the
6 Washington field office of the FBI with Special Agent John
7 Aldhizer. We had been into the bank, and on the way back
8 to our office, as best I recall, we were caught in the middle
9 of Pennsylvania Avenue at a stop light, and Mr. Aldhizer
10 recognized Mr. Booker, whom I did not know. I did not recognize
11 him and did not know who he was. He introduced himself
12 to Mr. Booker, and introduced me. He told him we were
13 agents, and Mr. Aldhizer talked to him. The entire encounter
14 lasted no more than perhaps sixty seconds or so, because when
15 the light changed, we went on across the street, and he went
16 his way.

17 Q. Did the interview occur entirely in the middle of
18 the intersection?

19 A. To the best of my recollection.

20 Q. You have no recollection as to whether you
21 accompanied Mr. Booker into the bank or any other building?

22 A. We did not.

23 Q. Did you say anything yourself to Mr. Booker on that
24 occasion?

25 A. Not that I recall. When I was introduced, I'm sure

1 I said, "I'm glad to meet you," or, "How are you," or
2 something of that nature. Mr. Aldhizer conducted the
3 interview such as it was.

4 Q. Do you recall the nature of the conversation between
5 Agent Aldhizer and Mr. Booker?

6 A. It was very brief. The best that I can recall, he
7 told Mr. Booker that we were with the FBI and asked if he
8 would like to talk to us and perhaps give us some information
9 about activities in the black community that we might have
10 been interested in.

11 Q. Do you recall Mr. Booker's response, if any?

12 A. It was negative. I don't recall the specific
13 response, but he was not interested.

14 Q. Did you have any other occasion, either before or
15 after, to meet or talk with Mr. Booker?

16 A. That's the one and only time I ever was in the
17 man's presence.

18 Q. To your knowledge, did anyone else ever have
19 occasion -- any other FBI agent have occasion to meet or
20 interview Mr. Booker?

21 A. I know from talking to Agent Aldhizer that he had
22 talked to him at another time.

23 Q. What was the nature of that occasion as Agent
24 Aldhizer described it to you?

25 A. As best I can recall, he was in the bank with --

1 MS. PILSBURY: Objection, Your Honor. This sounds
2 like it is based totally on hearsay.

3 MR. WHITE: We are not offering it, Your Honor, to
4 prove the truth of the subject matter, but just to fill out
5 the basis of Mr. Pangburn's knowledge about the Plaintiff
6 Booker and his contact with FBI agents.

7 THE COURT: The objection is overruled.

8 Q. (By Mr. White) Please proceed, Mr. Pangburn.

9 A. The best I can recall is Mr. Aldhizer said that
10 he talked to Mr. Booker in the bank across the street from
11 the office, and at that time another agent from the field
12 office was with Agent Aldhizer.

13 Q. Do you know the name of the other agent, or were
14 you told?

15 A. I believe it was Agent Pete Galada.

16 Q. Now, Mr. Pangburn, did you have occasion at any
17 time to --

18 THE COURT: Excuse me just a minute.

19 Ladies and gentlemen, you understand that this
20 isn't testimony because the witness doesn't know whether
21 the conversation occurred in the bank.

22 MR. WHITE: Thank you, Your Honor.

23 Q. (By Mr. White) Mr. Pangburn, did you have occasion
24 while you were assigned to squad S-5 to receive information
25 from informants?

1 third column on the page I handed you, where Mr. Wall
2 indicates that the FBI wrote the letter that was sent to
3 Mr. Bloom that has been introduced in evidence in this case
4 as Plaintiffs' Exhibit 17.

5 MR. WHITE: Your Honor, I would object to that --
6 to the form of that question inasmuch as it hasn't been
7 established --

8 THE COURT: There has been testimony about it.

9 MR. WHITE: Your Honor?

10 THE COURT: There is testimony on the subject from
11 a prior witness.

12 MR. WHITE: There has been testimony on the
13 subject -- I am objecting to the implication of the question.

14 THE COURT: The objection is overruled.

15 Q. (By Ms. Pilsbury) Mr. Pangburn, do you see the
16 reference I'm referring to?

17 A. No, I don't. Is it the third column?

18 Q. In the article does Mr. Wall indicate that in one
19 case "we sent an article to the New Mobilization Committee
20 demanding \$25,000 from the Black United Front"?

21 A. \$20,000.

22 Q. \$20,000, I'm sorry.

23 A. Yes, that's what the article says.

24 Q. Is that accurate?

25 A. I have no knowledge of that at all. I couldn't say

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1 either way. I don't remember the incident, I couldn't comment
2 on it.

3 Q. Are you generally familiar with that article that
4 you have testified to that you have read?

5 A. No, I'm not, because it has been years since I
6 read it.

7 Q. Do you remember what Mr. Wall said in the article
8 other than this particular incident?

9 A. I would not know without rereading it and refreshing
10 my memory. I just don't recall.

11 Q. Was Agent Wall a subordinate of yours?

12 A. No.

13 Q. Were you ever a squad leader?

14 A. Yes.

15 Q. Of S-7 or S-5?

16 A. S-5.

17 Q. Was the Racial Extremist Squad?

18 A. It was part of the time when I had supervisory
19 responsibility.

20 Q. Did Mr. Wall ever work on the squad when you were
21 the squad leader?

22 A. No.

23 Q. But you do know him?

24 A. Yes.

25 Q. You mentioned the term "racial extremist." Could

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1 Q. And was Agent Krebs a subordinate of yours?

2 A. Yes.

3 Q. What would be the types of activities that you
4 would instruct your subordinates would qualify a person to
5 be considered a racial extremist by the FBI?

6 A. Activities that they might engage in which were --
7 led to civil unrest, or statements they made, or advocating
8 unrest , or even criminal matters in some cases.

9 Q. When you say "advocating unrest," would this
10 include advocating changes in existing government policies?

11 A. No.

12 Q. Would this include advocating to racial discrimination
13 and unemployment?

14 A. No.

15 Q. Would this include advocating that something be
16 done about police misconduct?

17 A. No, I don't think so.

18 Q. Would it be a subject of FBI interest if black
19 leaders in the community were getting together and organizing
20 in a unified group?

21 A. No, I would not think so.

22 Q. Did your squad investigate the Black United Front?

23 A. Yes.

24 Q. What was it about the Black United Front that
25 attracted FBI interest?

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1 A. Some of the public statements that were made
2 which advocated change in the system through other than
3 normal, accepted, lawful means.

4 Q. Such as?

5 A. I can't recall any specifics.

6 Q. Can you recall any?

7 A. One that comes to mind was -- and I don't know who
8 advocated it -- but a suggestion that they try to raise some
9 kind of a militia or group to have available, if the City
10 Council did not rule in a manner -- in a way that they wanted
11 them to. It's kind of hazy in my mind because this has been
12 over 10 years ago.

13 Q. It is your recollection that the Black United
14 Front advocated the creation of a militia?

15 A. Just from my memory -- and as I say, it's been
16 years ago -- a militia or a group of people to take action if
17 the City Council did not act in the way they wanted them to.

18 Q. Did you understand the Black United Front to be
19 advocating some sort of armed insurrection?

20 A. No, not -- I don't recall. It's just --

21 Q. Can you recall anything else about the Black United
22 Front that warranted, in your mind, FBI investigation of it?

23 A. Not at this time.

24 Q. Do you think at that time there were other things?

25 A. I'm sure there were. It was coming in on a daily

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1 basis. It was fresh in my mind, but I don't remember.

2 Q. How long have you been a defendant in this lawsuit,
3 Mr. Pangburn?

4 A. Three or four years, I think. It was either three
5 or four years ago this month when I was first served.

6 Q. Are you still with the FBI?

7 A. Yes, I have testified I am.

8 Q. Have you had an opportunity to look at the files
9 of the people you investigated who are plaintiffs in this
10 lawsuit?

11 A. No, I have not.

12 MR. WHITE: Your Honor, I will object to the form
13 of that question in that it suggests that he investigated
14 himself --

15 THE COURT: Reform the question.

16 Q. (By Ms. Pilsbury) Mr. Pangburn, my question is
17 would the files of the plaintiffs in this lawsuit --

18 THE COURT: Your question was did he make any
19 inquiry into the files about people who were plaintiffs?
20 That is your question.

21 MS. PILSBURY: That's my question.

22 Q. (By Ms. Pilsbury) Can you answer that question,
23 Mr. Pangburn?

24 A. I'm sorry, would you please restate it?

25 Q. Did you make any inquiry in preparation to testifying

1 A. I was there from the time of the reorganization
2 until I was transferred out in '74.

3 Q. Do you remember the years?

4 A. The reorganization took place in late '68. I
5 went from S-7 to S-5. Then I left the Washington field
6 office in October of '74.

7 Q. Do you recall ever receiving any information that
8 any of the agents in your squad had gone to Mr. Booker's
9 residence and interviewed him there?

10 A. No.

11 Q. Mr. Pangburn, I place before you Plaintiffs'
12 Exhibit Number 97-115, which is dated, I believe, October
13 1969.

14 A. September 13, 1969.

15 Q. September 13, 1969.

16 At that date, were you in squad S-5?

17 A. Yes.

18 Q. Now, can you describe what that document is that
19 I placed before you? Do you recognize it?

20 A. I recognize the document. I don't remember having
21 seen it before.

22 Q. Could you just look at that document and see if it
23 refreshes your memory as to whether or not any agents in
24 your squad interviewed Mr. Booker at his home?

25 MR. WHITE: Your Honor, I would object to the form

1 of the question in that it is being assumed that this
2 occurrence involved agents from the same squad as Mr.
3 Pangburn, and that has not been established.

4 THE COURT: The objection is overruled.

5 Before you inquire, and if you look at the file,
6 you ask that and qualify that question.

7 Q. (By Ms. Pilsbury) Does that refresh your memory
8 at all, Mr. Pangburn?

9 A. No, it does not.

10 Q. Would other agents from other squads have inter-
11 viewed Mr. Booker?

12 A. They could have. But I was not squad supervisor
13 when this communication was prepared.

14 Q. Were you assigned to investigate people in the
15 black community at that time?

16 A. Yes.

17 Q. Did you have any contact with Mr. Booker before you
18 became squad supervisor?

19 A. I don't think so. I don't remember -- the one
20 encounter that I had with him --if that occurred before I became
21 supervisor or while I was supervisor. I think it might have
22 been before I became supervisor.

23 Q. Again, when did you become supervisor?

24 A. In May of '72.

25 Q. Did you have any knowledge of such an interview



1 taking place as was described in the document just shown
2 you?

3 A. No, I do not.

4 Q. In connection with your work in S-7, did you ever
5 have occasion to receive information or investigate a
6 Reverend David Eaton?

7 A. I never investigated him, and I could have
8 received information concerning him, but I don't remember any
9 specifics.

10 Q. Do you remember at this time whether or not he was
11 active in the Black United Front?

12 A. I don't remember that he was or that he wasn't.

13 Q. Do you recognize the name?

14 A. I do indeed.

15 Q. Do you recognize the name as somebody that was
16 under investigation at that time?

17 A. I recognize the name as a black minister in
18 Washington, D.C., and we had under investigation from time
19 to time, but it was not an exhaustive investigation. It
20 wasn't a case that was open for a long period of time, as
21 I recall.

22 Q. If he were under investigation, would he be
23 categorized as a racial extremist?

24 A. He would not be, but the classification of
25 investigation would be racial extremist.

1 Q. Mr. Pangburn, at the time you were in S-5,
2 from 1968 through 1974, did you--

3 A. I'm sorry?

4 Q. 1968 to 1974?

5 A. I was where?

6 Q. In S-5?

7 A. That's --

8 Q. Incorrect?

9 A. Yes, it was late '68 when we reorganized, and I
10 was in S-5, you're right.

11 Q. So that's correct.

12 During the time you were in S-5, did you ever
13 receive any instructions from your superiors as to an FBI
14 program called COINTELPRO - Black Nationalist Hate Groups?

15 A. Yes.

16 Q. What sort of instructions did you receive?

17 A. I don't remember specifically. I remember getting
18 COINTELPRO communications, but I don't remember the specific
19 instructions.

20 Q. Were they written or oral?

21 A. They were written.

22 Q. How would they be brought to your attention?

23 A. The normal procedure would be for it to be brought
24 to the attention of squad personnel through squad conferences,
25 through supervisor routing the communication around the various



members of the squad for them to read, or sometimes during a one-on-one discussion with supervisors.

Q. Would these be in the form of airtels?

A. Could be, yes. Normally I think it would be.

Q. Would these be in the form of memorandum to the special agent in charge, WFO, from the Director?

A. Yes, it could have been.

Q. So even though a document wouldn't be addressed to you, if it concerned your activities, you might see it?

A. Yes.

Q. Do you recall seeing documents describing COINTELPRO-Black Nationalist?

A. Yes.

Q. What did you understand to be the purpose of COINTELPRO-Black Nationalist?

A. As best as I can recall, the program was to try to come up with procedures to try to disrupt -- disrupt is probably a harsh word -- to come up with procedures to make efforts on the part of the extremist groups less effective, those efforts which were thought were detrimental to the --

Q. The term "disrupt," though, is one that was used in the FBI's own instructions, was it not?

A. I don't recall.

Q. During the time that you were in S-5, Mr. Pangburn, do you recall any efforts on the part of the FBI to create

1419A

1 Q. Do you know who was, if anybody?

2 A. Harry Ervin was, I believe, at one time, but I
3 don't recall anyone else who might have been.

4 Q. Were you the case agent for David Eaton, the
5 investigation of David Eaton, at any time?

6 A. No, sir.

7 Q. Were you the case agent for the investigation of
8 Reginald Booker at any time?

9 A. No, sir.

10 Q. Miss Pilsbury asked you a question regarding
11 your recollection of a matter, and I believe, sir, your
12 answer might have been misleading. I'd like to restate the
13 question: Did you at any time instruct your informants in
14 the Black United Front to take a position on the issue of the
15 Black United Front's demand for money from the National
16 Mobilization Committee?

17 A. Did I instruct an informant to take a position?

18 Q. That's right.

19 A. No, I did not.

20 Q. You testified that you were aware of the program.
21 Counterintelligence Program-Black Nationalist Hate Groups.
22 Did you, sir, at any time -- were you at any time assigned
23 to that program as the coordinator or have any special
24 responsibilities with regard to that program?

25 A. No, I was not.

1 Q. Do you recall who, if anyone, was assigned to
2 that task?

3 A. I think Bob Wall might have had it at one time,
4 but I'm not sure.

5 Q. Do you have any knowledge as to anyone else who
6 might have had that assignment?

7 A. I don't recall of anyone.

8 Q. Did you at any time, sir, make any recommendations
9 or proposals under the counterintelligence programs?

10 A. Never did.

11 Q. Sir, I would like to show you what has been
12 introduced into evidence as Plaintiffs' Exhibit Number 17.

13 THE COURT: Is this in the scope of cross?

14 MR. WHITE: It relates to the matter in the Wall
15 article to which Miss Pilsbury alluded.

16 Q. (By Mr. White) Mr. Pangburn, have you ever seen
17 this letter -- this document before?

18 A. No, I have not.

19 Q. Do you have any knowledge as to who may have written
20 or produced this document?

21 A. No, I do not.

22 Q. Miss Pilsbury showed you a document dated September
23 of 1969. I would like for you to reexamine this document.
24 Is this the document dated September of '69 that Miss
25 Pilsbury showed to you?

1 A. Yes, sir, September 13, 1969.

2 Q. Does that document relate to an apparent interview
3 of Mr. Booker?

4 A. It relates to Mr. Booker being contacted and
5 declining to be interviewed.

6 Q. Declining to be interviewed?

7 A. Declining to be interviewed. It says, "Except
8 in the presence of his attorney."

9 Q. In 1969, Mr. Pangburn, did squad S-5 have any
10 responsibility for investigating matters relating to
11 possible plans to assassinate the President?

12 A. Not directly.

13 Q. Can you tell from that document who the author of
14 it was?

15 A. The initials of the dictator appear to be JG. I
16 don't know --

17 Q. Is it possible that they are PG?

18 A. It is difficult to tell. It's not a clear copy.

19 Q. I beg your pardon, sir, it is JG.

20 Was there anyone on squad S-5, to the best of your
21 recollection, with the initials JG?

22 A. As an agent or --

23 Q. As an agent, yes. At this time, September of 1969.

24 A. It's difficult for me to remember who all was on
25 the squad that long ago.

1 Q. Looking at the subject matter of that document,
2 that one page, were you in any way involved to the best of
3 your recollection in investigating an allegation of a plot
4 to assassinate the President and the Apollo 11 astronauts?

5 A. No, I was not.

6 Q. To the best of your recollection, was anyone on
7 your squad assigned to such an investigation?

8 A. Not to my knowledge.

9 Q. Miss Pilsbury asked you a number of questions
10 about what might constitute in your mind unrest. Do you
11 recall those questions and your testimony?

12 A. Yes --

13 THE COURT: Ladies and gentlemen, you are to
14 disregard these questions about plans to assassinate the
15 President and Apollo astronauts. That has nothing to do with
16 this case.

17 MR. WHITE: Your Honor, I want to clarify it is
18 the subject matter of this document --

19 THE COURT: I don't want the jury confused by that.

20 Q. (By Mr. White) Regarding the testimony on the
21 issue of what in your mind constituted unrest, do you
22 recall the questions that Miss Pilsbury asked you and your
23 responses?

24 A. Yes, I do.

25 Q. In your mind, would unrest include advocacy that

1 the Washington field office?

2 A. Yes, sir.

3 Q. When were you first assigned to the Washington
4 field office?

5 A. I believe it was about 1966. '65 or '66.

6 Q. Sir, how long did you remain at the Washington
7 field office?

8 A. Until April of '72, I believe it was.

9 Q. What was your assignment following your assignment
10 at the Washington field office?

11 A. I was assigned overseas.

12 Q. To what country?

13 A. To La Paz, Bolivia.

14 Q. Sir, were you at any time assigned to a squad
15 bearing the designation S-7?

16 A. Yes.

17 Q. When was that?

18 A. I believe it was in '68 -- from 1968 through about
19 April of 1970.

20 Q. During part or all of that time you previously
21 testified you were designated as the COINTELPRO - New Left
22 coordinator; is that correct?

23 A. Yes.

24 Q. Did you have any other assignments during that
25 period?

1 A. My primary assignment was to investigate the SDS,
2 also known as the Weathermen.

3 Q. What was the nature of your assignment with regard
4 to the SDS?

5 A. I was a case agent.

6 Q. What did you do in carrying out that assignment?

7 A. Well, investigating the activities of the SDS on
8 campuses and in the regional headquarters of the SDS in
9 Washington.

10 MR. SCHEMBER: Your Honor, I would object to the
11 further line of this inquiry. It is irrelevant.

12 THE COURT: It's overruled.

13 Q. (By Mr. White) Sir, what generally was the purpose
14 of your investigation of the SDS?

15 A. We were trying to determine whether or not they
16 were going to be -- well, engage in any violence on the
17 campuses or in the area.

18 Q. Would you be able to estimate -- were you assigned
19 to any other investigative activity during that period
20 while you were investigating the SDS?

21 A. I may have been on some minor cases.

22 Q. Some minor cases?

23 A. Yes, perhaps a visit as to Cuba or something like
24 that. The Venceremos Brigade --

25 Q. Sir, would you be able to estimate the portion of

1 your time during this period that was devoted to the SDS
2 investigation as --

3 A. I'd say -- I'm sorry.

4 Q. Go ahead, I think I've finished my question.

5 A. I would say over 90 percent of the time.

6 Q. Of your time involved during that period of time,
7 how much of your time by your estimate would have been
8 devoted to your duties under the counterintelligence program?

9 A. Very little.

10 Q. What generally was the nature of your duties as the
11 COINTELPRO coordinator?

12 A. I was the man in charge of the -- individual in
13 charge of the paper flow and the file which was repository
14 for the suggestions made by other agents, and including
15 myself.

16 Q. Sir, there has been previous testimony on this
17 subject by other witnesses, but I want your answer. What
18 does the term "case agent" mean?

19 A. "Case agent" means the agent responsible for the
20 particular case assigned to him by a supervisor. He is
21 responsible for running that case.

22 Q. Sir, during the time that you were assigned to
23 S-7, were you ever the case agent on any investigation of
24 Abe Bloom, who is now a plaintiff in this case?

25 A. No, sir.

1 Q . Were you ever the case agent on any investigation
2 of the Washington Mobilization Committee?

3 A. No, sir.

4 Q. To the best of your recollection, did you have any
5 involvement in the investigation of any of these groups?

6 A. To the best of my recollection, no. Perhaps if
7 there was some relationship between the SDS and these
8 organizations, I probably would have known about it.

9 Q. Were you at any time the case agent assigned to
10 any investigation of the Student Mobilization Committee?

11 A. No, sir.

12 Q. Now, sir, going back to the matter of the -- your
13 duties as the coordinator of the counterintelligence program,
14 were there occasions in which you would prepare memorandum
15 carrying the ideas of some other agents; would that occur in
16 your duties?

17 A. Yes, sir.

18 Q. Were there other occasions in which you would
19 prepare memoranda relating to your own ideas under the
20 counterintelligence program?

21 A. Yes.

22 Q. Was one of those ideas your idea, the Rational
23 Observer?

24 A. Yes.

25 Q. Would you describe to the jury, please, what the

1 Rational Observer was?

2 A. The Rational Observer was a bulletin, I call it,
3 designed to make students think about various aspects of
4 campus activity and to allow them to make their own decisions
5 about what they were going to do relative to subject matter
6 in the pamphlet.

7 Q. Would you state that that was the purpose of the
8 Rational Observer?

9 A. That is correct.

10 Q. And why, sir, in your mind, would it have been
11 appropriate for an agent of the Federal Bureau of Investigation
12 to undertake such a task?

13 A. Well, under the -- I'm sorry, would you repeat
14 the question?

15 Q. Sir, why, in your mind, was it appropriate for you
16 as an agent of the FBI to undertake a task having the purpose
17 that you just described?

18 A. Well, we were concerned about violence on campuses
19 at that time, and we thought that through this media the
20 students who had a natural inquisitiveness would read this
21 and then decide what they wanted to do.

22 THE COURT: I can't hear you, sir.

23 THE WITNESS: I'm sorry, sir.

24 The pamphlet was designed to make the students
25 think about the options they may have had, and they had

1 a natural inquisitiveness, and they should read this and
2 then make decisions based upon facts or information made
3 available to them.

4 Q. (By Mr. White) Now, sir, was -- on the occasion
5 in which you -- or at the time that you prepared this
6 leaflet, did you believe at that time that -- or did you
7 have a belief as to whether it was proper or lawful to
8 distribute such a leaflet?

9 A. Yes, I thought it was lawful. I thought it was
10 proper, too.

11 Q. What was the basis for your belief in that regard?

12 A. Well, I had submitted the idea to FBI headquarters,
13 and they came back, and they authorized me to do it, so
14 I assumed that it was perfectly all right to do it.

15 Q. Does that pamphlet contain any instruction or
16 demand any sort of imperative sort of demand that students
17 not participate in any kind of activity?

18 A. By no means -- except for maybe drugs. I had a
19 little article in there about drugs.

20 Q. Mr. Grimaldi, at the time that you were assigned
21 to S-7, did you know an agent by the name of Robert Wall?

22 A. I did.

23 Q. To your knowledge, what was his assignment, if
24 any, at the time you knew him?

25 A. I don't recall the cases he had, but I recall he

1 was in the New Left at the time I was there.

2 Q. Was there an occasion of which he was transferred
3 to S-5, to the best of your recollection?

4 A. Yes, I believe he was transferred.

5 Q. Did there come a time in which Agent Wall left
6 the FBI?

7 A. That's correct.

8 Q. To the best of your recollection and knowledge, sir,
9 what was Mr. Wall's attitude about the FBI at the time he
10 left, or at least on the basis of what he might have told
11 you?

12 A. He was very displeased with it.

13 Q. Did he tell you at that time the nature of his
14 displeasure or why he was displeased?

15 MR. SCHEMBER: Objection, Your Honor, irrelevance.

16 THE COURT: Sustained.

17 Q. (By Mr. White) Following -- I'm sorry, sir, did
18 you state your estimate as to when he left the FBI?

19 A. No, I think it was in about 1970, somewhere in
20 1970.

21 Q. Was there an occasion later in which you again
22 heard about Agent Wall?

23 A. Yes.

24 Q. When did that occur, sir?

25 A. A telegram was sent to --

Q. First, before we describe it, do you remember --

1 A. Yes, I do. I believe it was in the early part of
2 1972.

3 Q. Okay, would you describe the circumstances then,
4 sir, please?

5 A. Yes.

6 MR. SCHEMBER: Objection, Your Honor. The relevance
7 of this inquiry is nonexistent as to what Robert Wall was
8 doing outside of the Bureau in 1972. That has nothing to do
9 with this case.

10 MR. WHITE: Your Honor, this does relate to the
11 matter --

12 THE COURT: Objection is overruled.

13 MR. WHITE: Thank you, sir.

14 THE WITNESS: Yes. I don't recall the exact
15 month. I think it may have been February of '72 or March
16 of '72. I received a telegram from channel 13 in New York,
17 which is -- I believe it's an educational channel -- in which --
18 I don't recall the exact wording -- they stated in the telegram
19 that Mr. Wall was going to testify or give a program or
20 appear on their program, and he was going to relate activities
21 of the Washington field office in the investigations of New
22 Left, and that Mr. Wall was going to bring me into the
23 revelations he was going to make on channel 13. Channel 13
24 offered me equal time to refute what Mr. Wall was going to say.

25 Q. (By Mr. White) What was your response to that

1 invitation?

2 A. I turned it down.

3 Q. Did you have any further knowledge regarding the
4 content of Mr. Wall's apparent statements on that occasion?

5 A. No, sir, just what my sisters told me who live
6 in New York.

7 Q. Do you have any present knowledge as to former
8 agent Wall's whereabouts?

9 A. Well, I read he was in Canada, somewhere in Canada.

10 Q. To the best of your recollection, sir --

11 THE COURT: That last question and answer are
12 irrelevant, and disregard that.

13 Q. (By Mr. White) To the best of your recollection,
14 Mr. Grimaldi, what were the charges or statements that Agent
15 Wall was making about you in 1972?

16 A. I think one of the things he said that I had instructed
17 an informant to burn down a building.

18 Q. Was that allegation true?

19 A. No, sir.

20 Q. Mr. Grimaldi, I would like to show you an exhibit
21 labeled Plaintiffs' Exhibit -- I beg your pardon --
22 Federal Defendants' Exhibit Number 19, and ask you to examine
23 this.

24 Have you had occasion to see this document prior
25 to today?

- - -

RECROSS EXAMINATION

By Mr. Schember:

Q. Mr. Grimaldi, isn't it true that the effects of counterintelligence program actions were not always limited to the specific targets designated for them?

A. I could assume that would be true, yes.

Q. Wouldn't that be the case if a counterintelligence program action targeted one antiwar group that was seeking to combine its efforts with other antiwar groups?

A. That's a possibility.

MR. SCHEMBER: Nothing further.

THE WITNESS: Thank you, Your Honor.

THE COURT: Next witness.

MR. WHITE: Mr. Courtland Jones.

THE COURT: Mr. Jones, you are still under oath.

- - -

COURTLAND JONES

recalled as a witness on behalf of the Federal defendants, and having been previously duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. White:

Q. Would you please state your name, sir?

A. Courtland Jones.

Q. Are you a defendant in this action?

1 A. I am, sir.

2 Q. Mr. Jones, you had previously testified, but to
3 refresh our recollections, would you again please tell the
4 jury -- let me get at it this way: Were you previously
5 employed by the Federal Bureau of Investigation?

6 A. Yes, sir.

7 Q. When were you first employed by the FBI?

8 A. October 1941.

9 Q. How long did you remain in their employment?

10 A. Until 1974.

11 Q. What position, if any -- were you during that period
12 of time assigned to the Washington field office?

13 A. Yes.

14 Q. What position, if any, did you hold during the
15 time period in the position in the Washington field office
16 during the time period of 1964 to 1974?

17 A. I was the coordinating security supervisor.

18 Q. Now, sir, would you please once again describe for
19 the jury the general nature of your duties as the coordinating
20 supervisor?

21 A. We had nine squads with a supervisor for each
22 squad. There were nine different broad categories in
23 investigations, and there were roughly up to 200 agents on
24 those nine squads. The personnel changed from time to time.
25 My job as coordinator was to see that things ran smoothly.

1 I would move agents from one squad to the other, form new
2 squads, generally management.

3 Q. Sir, of those nine squads, did you have any
4 particular or special responsibilities with regard to any
5 of them that differed from --

6 A. Oh, yes. I had one of -- yes, I had one of my
7 own. That was called S-1, and it handled special cases, so
8 I supervised it as an individual. The other squads there
9 were supervisors, and I had the overall responsibility and
10 coordination for it.

11 Q. Sir, could you describe or explain the distinction
12 in the duties of the squad supervisor and your duties as the
13 security coordinating supervisor?

14 A. The squad supervisors handled the day-to-day
15 work. They consulted me if they felt it was a matter of
16 policy. We talked about manpower. I was a link between
17 them and the agent in charge.

18 Q. What would have been the duties of -- I believe
19 I missed this -- what would have been the duties of the squad
20 supervisor?

21 A. The squad supervisor supervised the day-to-day
22 investigations of the cases under his jurisdiction. He
23 supervised the various programs, and, I suppose, that is a
24 pretty good description of it.

25 Q. Sir, under the structure of the Washington field

1 office at that time, were there subject matter distinctions
2 between the squads? That is, there were differences between
3 what each squad investigated as against other squads; is that
4 correct?

5 A. Yes, sir.

6 Q. At what level did the responsibility for carrying
7 out investigations, particular investigations?

8 A. Each agent was responsible for his own assignment.

9 Q. You testified that there were approximately 200
10 agents.

11 A. It is up to that number, yes, sir.

12 Q. Did -- well, focusing on the period 1968 to 1972,
13 what would be your estimate as to the number of agents under
14 your supervision?

15 A. There would have been less than that number because
16 I remember that I had to take some of the agents off of
17 Soviet bloc investigations and to put them onto the New
18 Left area. It would be, I would say, roughly 175 agents
19 on the security side of the house.

20 Q. The security side of the house being the nine
21 squads?

22 A. Yes, involving the nine squads.

23 Q. Sir, why was it necessary to assign additional
24 agents to squad S-7?

25 A. Because of the potential violence that was due

1 to the antiwar effort and the coordination of the material
2 that was being sent in to our office -- our office from the
3 other offices throughout the country.

4 Q. Sir, when, to the best of your recollection, did
5 this occur; that is, that it was necessary to add new agents
6 to squad S-7?

7 A. It would have been -- it would have been the --
8 I could only guess. I would say roughly around 1968 --
9 7, 8. That's a pretty good guess.

10 Q. Do you recall, sir, who the squad supervisor was
11 at that time, at the time of this --

12 A. Which squad?

13 Q. Of squad S-7.

14 A. Charlie Ferguson was a supervisor. John Palmer
15 was a supervisor.

16 Q. Well, sir, I was speaking specifically at the time
17 the additional manpower was added.

18 A. It's my recollection that Ferguson was a supervisor
19 of squad S-5, which had extremist matters, both black and
20 white, and then when the New Left work became heavy -- oh,
21 and he also had it, he had the New Left work. When that
22 became so heavy, we formed a second squad, which would have
23 been squad S-7. It was 5 -- it was designated number 5.
24 Then when we split these squads, we added number 7.

25 Q. Just to clarify this, sir, was there an occasion



1 in which what you call extremist matters, white and
2 black extremist groups and New Left matters, were in one
3 squad?

4 A. Yes, sir.

5 Q. What occurred with regard to that squad?

6 A. The squad became too big, and so in order to have
7 better supervision and better coordination, it was split
8 up into two squads. Thereafter we had squads S-5 and S-7.
9 S-5 would have handled the extremist matters, and S-7
10 handled New Left areas.

11 Q. Sir, can you presently recall the persons who were
12 the supervisors of both those squads after that reorganization?

13 A. Ferguson was a supervisor of S-5. I believe
14 John Palmer -- yes, John Palmer became the supervisor of
15 S-7. After Ferguson left, I would have to guess. It could
16 have been Mr. Pangburn, but I am not certain.

17 Q. Now, sir, in connection with this structure as
18 you described it, and your position in it, what kind of
19 information on a normal basis would come to you relative to
20 individual investigations?

21 A. I saw all the mail that came from headquarters, at
22 least it was routed by my desk. If I wasn't there, whoever
23 was acting for me saved whatever he thought was urgent or
24 new or different. I saw the outgoing mail from the other
25 squads, which was sent to me by the supervisors.

1 Q. Now, the outgoing mail that was sent to you by
2 supervisors, did the supervisors have discretion in what they
3 sent to you?

4 A. Yes, to an extent. In certain instances I would
5 ask that answers to correspondence from the Bureau be sent
6 through me. The supervisors generally had a feel for the
7 issues that they felt I should sign out.

8 Q. Sign out being what, sir?

9 A. Meaning to authorize it being sent from the field
10 office over to the Bureau headquarters.

11 Q. Did the squad supervisors have authority to sign
12 out correspondence in that fashion?

13 A. Yes, sir. Let's put it this way: Each of us had
14 the authority to sign out mail. But there were certain
15 items that I wanted to read -- review first, and those items
16 were sent to me.

17 Q. Now, sir, in connection with investigations of groups
18 or individuals, what information, if any, would be supplied
19 to you regarding the day-to-day handling of any particular
20 investigation?

21 A. Very, very little.

22 Q. What kind of information would come to you about
23 a particular investigation?

24 A. Issues which were deemed important, unusual, or
25 policy matters.

1 Q. Would you as a routine matter see information that
2 had been supplied to agents by their informants?

3 A. No, sir, no, I would not see that usually.

4 Q. Did you -- would you have had occasion yourself to
5 deal directly with informants in the domestic intelligence
6 areas under squads S-5 and S-7?

7 A. No, sir.

8 Q. Was it your -- was it your responsibility to
9 assign agents to particular investigations in squads S-5
10 and S-7?

11 A. No, sir.

12 Q. Whose responsibility was that?

13 A. That would be the squad supervisor.

14 Q. What responsibilities would an agent have in
15 connection with any particular investigation; that is,
16 responsibilities in carrying out these investigations and
17 any further work that would need to be done?

18 A. The agent was the manager of the investigation. He
19 had the responsibility of seeing that it was done thoroughly,
20 correctly, and that it was thereafter put on paper.

21 Q. Was an agent handling an investigation required to
22 make reports or summaries of the results of the investigation?

23 A. Summaries?

24 Q. Reports or -- prepare some documentation --

25 A. Yes, sir. Generally speaking, an agent wrote a

1 report setting forth the results of his investigation.

2 Now, the reports had different names. Some were called
3 airtels, teletypes, reports; but they all served the same
4 purpose. It was a written account of the results of his
5 investigative endeavors.

6 Q. Now, the case agent -- would the case agent be the
7 person that prepared this written account?

8 A. Yes, sir.

9 Q. And what would physically happen; where would the
10 written account physically go after it was prepared?

11 A. The case agent generally dictated it. Some agents
12 rough drafted, but not very often. They would dictate it
13 to a stenographer. The stenographer would transcribe it. It
14 would then be returned to the case agent for his approval,
15 and he would put his initials on it saying that the paper and
16 the contents met with his approval, and he would then send
17 it to his supervisor for his approval.

18 Q. What would the supervisor do?

19 A. The supervisor would then approve it for filing or
20 for transmittal to the FBI headquarters, or for sending it
21 to me or sending it to the agents in charge.

22 Q. As a normal matter, were reports of investigations
23 routinely sent to you?

24 A. No, sir.

25 Q. Would you have an estimate as to the -- of all the

1 investigations being done of the proportion -- proportion of
2 the reports that would be sent to your desk or through your
3 desk?

4 A. Less than five percent.

5 Q. Would you have an estimate, sir, during this period
6 of 1968 to 1972 -- you testified that it was your recollection
7 that there were approximately 175 agents -- would you be
8 able to estimate the total number of investigative matters
9 being handled by those 175 agents?

10 A. Oh, counting the investigations of the Soviet
11 bloc nationals on whom we were gathering intelligence, other
12 countries such as Cuba, Southeast Asia, and any other foreign
13 country which we had an investigative interest, that would
14 have been several thousand -- several thousand active cases
15 under investigation.

16 Q. Would that be at any one time?

17 A. Yes, sir.

18 Q. Focusing on the two squads, S-5 and S-7, would it
19 be possible to estimate the total number of investigations
20 that they had active at any one time during the period of
21 1968 to 1972?

22 A. It would be a guess, but I would say several hundred --
23 that's not -- that's very, very general. Three or 400
24 maybe.

25 Q. What is your recollection, sir, as to the number

1 of agents on those two squads?

2 A. It's my recollection that we reached a number of
3 approximately 40 agents when Charlie Ferguson had it, and
4 that was just too many agents for him to supervise. So
5 then we broke it into two separate squads.

6 Q. During the period '68 to -- during the general
7 period around '68 into the early '70s, was there a program
8 known as Counterintelligence Program - New Left?

9 A. Yes, sir.

10 Q. Was there a program known as Counterintelligence
11 Program - Black Nationalist Hate Groups?

12 A. Yes, sir.

13 Q. Were those programs assigned to the security side
14 of the house, as you described it?

15 A. The Black Nationalist COINTELPRO was assigned to
16 Squad 5, and the COINTELPRO New Left was assigned to
17 Squad 7.

18 Q. Did you have any role in creating or devising
19 those programs?

20 A. No, sir.

21 Q. Do you know who did?

22 A. I don't know specifically the names of the people,
23 but this program was devised at the Bureau -- at the
24 headquarters level.

25 Q. What was your responsibility in connection with

1 those two programs?

2 A. My responsibility was to carry out the directions
3 of the Bureau and to see that it functioned smoothly.

4 Q. Were there occasions in which you received inquiries
5 or communications from headquarters regarding the functioning
6 of those two programs and your fulfilling that obligation?

7 A. I'm certain -- excuse me -- I'm certain that there
8 were.

9 Q. Do you have any specific recollection of any
10 particular communication that might have related to whether
11 or not you were successfully carrying out the program to
12 their satisfaction?

13 A. Oh, no, sir.

14 Q. Now, you mentioned that all mail from headquarters
15 would be routed through your desk. Were you specifically
16 referring, sir, to mail that related to the subject matter
17 of those nine squads?

18 A. Yes.

19 Q. You would not have had -- would you have had any
20 responsibility for seeing or reviewing mail related to --
21 well, I guess I can call it the other side of the house, the
22 non-security aspects of the --

23 A. No, sir.

24 Q. Sir, to the extent that it's possible, could you
25 estimate the volume of mail that you would have to deal with

1 on a day-to-day basis coming from headquarters?

2 A. Maybe a stack that high (indicating), which is
3 what, a couple of inches high.

4 Q. Would it be possible at all for you, sir, to estimate
5 the number of pieces of paper?

6 A. It was roughly -- perhaps some days it would be
7 light, maybe 50, 75 pieces, and other days it would be up to
8 100.

9 Q. What was your practice with regard to that mail?
10 What would you do with respect to each piece of mail?

11 A. I scanned it very fast by title. If it was an
12 item which was of obvious interest to me, then I stopped and
13 read it.

14 Q. What was the purpose of scanning it -- I'm sorry,
15 sir, I don't mean to confuse you. What would you do then
16 with each piece of mail that you either scanned or read?

17 A. I routed it to the respective supervisors of the
18 other eight squads.

19 Q. You testified last week as to your general practices
20 as to what you did physically with a document when you saw
21 it. Sir, would you initial each document that came to your
22 desk whether you scanned it or read it?

23 A. I -- if there was some instruction that I wanted to
24 add to the document, I would initial it. If it was something
25 of importance that I wanted the supervisor to know that I had

1 also read it, I would put my initials on it. If it was a
2 routine matter, no, I did not initial it.

3 Q. A routine matter being what, sir, one that you
4 just scanned?

5 A. Yes, sir.

6 Q. Now, you were also responsible for other mail,
7 or at least other mail would come to your attention in
8 addition to the incoming mail. Focusing specifically on mail
9 which was to go --

10 A. Outside.

11 Q. -- from the Washington field office to some other.
12 office or to the headquarters, what would be the volume of
13 mail that you would have to attend to on a daily basis that
14 was outgoing?

15 A. It would be a guess, somewhere between 25 and 50
16 pieces of mail. I can say this: I usually got to the office
17 about 7:30, and I usually left about 6:15 or 6:30. So I was
18 carrying out my functions during that period. Of course, some
19 of that time I was reading mail, and other time I was on the
20 telephone speaking with agents and speaking with supervisors.

21 Q. Now, sir, would it be possible at all -- could you
22 estimate for us, please, the proportion or percentage of
23 the mail that you saw or the time that you spent that was
24 devoted to Counterintelligence Program - New Left and
25 Counterintelligence Program - Black Nationalist Hate Groups?

1 A. Oh, very little. Very, very, very little. Maybe
2 one or two pieces of mail a month.

3 Q. How much time would you spend on that mail -- I
4 mean on each piece of mail -- to the best of your recollection?

5 A. Well, again that would be hard to say. If I
6 disagreed with, say, a proposal, or if I had a question, I
7 would perhaps telephone the supervisor. If it was a two-page
8 outgoing document, it would probably take me three or four
9 minutes to read and approve it.

10 Q. Sir, what did you see your function and
11 responsibility as being when you received a proposal which
12 had been prepared by an agent in one of your squads that
13 related to one of the counterintelligence programs?

14 A. I looked at it as being part of a program which
15 the Bureau had designed and instructed that it be implemented,
16 and I looked at it as a response from the Washington field
17 office, and there were times when we had -- that we didn't
18 have any responses, and basically it was there for my
19 approval.

20 Q. Was it your responsibility, sir -- strike that.

21 Going now to another subject -- I don't want to
22 confuse you on this, sir -- did you also have responsibilities
23 in the Washington field office relating to the subject of
24 electronic surveillance?

25 A. Yes, sir.

1 Q. Would you describe briefly, sir, the nature of those
2 responsibilities?

3 A. The electronic surveillance squad had a supervisor.
4 It was the policy of the FBI headquarters that approval for
5 or recommendation for a surveillance had to be signed by
6 the agent in charge. So if there was an issue that a case
7 agent felt deserved a surveillance, he would discuss it with
8 his supervisor. They would prepare a recommendation for it.
9 It was then sent to me, and I would send on up to the agent
10 in charge. I would initial it, showing that I felt it was
11 justified.

12 Q. Were there occasions in which you declined to send
13 forward a recommendation?

14 A. Yes, sir.

15 Q. Normally, what would be the criteria that you
16 would use in trying to determine whether a recommendation
17 for electronic surveillance would go forward?

18 A. Well, the surveillances were used very infrequently,
19 and we could not obtain one on a whim or very easily.
20 It would have to be an important case. It would have to be
21 a situation where we had good reason to believe that we would
22 gather solid intelligence by using that device.

23 Q. Sir, to the best of your recollection, were there
24 procedures and internal -- that is, internal within the FBI --
25 requirements relating to the matter of seeking of --

1 requesting permission and implementing electronic surveillance?

2 A. It's my understanding that the recommendation would
3 go to the Bureau, and the Bureau would then -- if it
4 approved of it, it was then sent for approval to the
5 Department of Justice, and that the A.G., or somebody acting
6 for him, signed it, approved it.

7 Q. Who, to your knowledge -- did you know, sir,
8 who established the procedures and requirements that were
9 pertinent to the issue of requesting permission and receiving
10 permission to conduct electronic surveillance?

11 A. I assume that it was done by the Department and .
12 the FBI, that they got together and agreed on it.

13 Q. What knowledge, sir, if any, did you have relating
14 to the laws pertinent to the issue of electronic surveillance?

15 A. I have no recollection of reviewing the laws on
16 the surveillances.

17 Q. Were there -- to your knowledge -- I'm sorry,
18 there were two electronic surveillances which you testified
19 about earlier in this case. To the best of your recollection,
20 who was the highest authority approving those electronic
21 surveillances? Do I need to refresh your recollection?

22 A. No, I don't think so. I believe I was shown two
23 documents, one which was approved by the agent in charge at
24 that time whose name was Joe Purvis, and the second was
25 approved by Bob Kunkle in the field office. These were

1 requests for surveillances --

2 THE COURT: The question was who had the ultimate
3 authority.

4 THE WITNESS: Oh, excuse me, sir. The ultimate
5 authority would have been the Attorney General.

6 Q. (By Mr. White) Did you believe at that time that
7 these surveillances were lawful and proper?

8 A. Absolutely.

9 Q. And what was the basis for your belief?

10 A. The basis of my belief was the fact that the FBI
11 headquarters told me that they had been approved, and that
12 they should be instituted.

13 Q. To the best of your recollection, did you personally
14 review the requests when they were in the Washington field
15 office relating to those electronic surveillances?

16 A. I reviewed the requests for them, yes, sir.

17 Q. Was it your judgment at that time, sir, that these
18 surveillances were necessary and appropriate for carrying
19 out the investigative functions of the Washington field
20 office?

21 A. Yes, sir.

22 Q. Switching to another subject, sir, at that time
23 were you aware of the existence of a matter known as the
24 Security Index?

25 A. Yes, sir.

1 Q. Would you describe briefly what the Security Index
2 was?

3 A. The Security Index was a compilation of names
4 which contained -- let me start all over again. It was a
5 list of names of people who had been investigated by the
6 FBI and whose files had been submitted to the Department of
7 Justice where the FBI recommended they be placed on this
8 index. The Department would approve or it would disapprove
9 their names.

10 The purpose of the index was a handy compilation
11 of names of people whose names and files could be reviewed .
12 in the event of an emergency like a war or something of
13 that nature.

14 Q. Were you personally responsible for the creation
15 and establishment of the Security Index?

16 A. No, sir.

17 Q. Do you know what official was or what office was?

18 A. No, sir.

19 Q. Was it created in the Washington field office?

20 A. Not to my knowledge. I believe I testified
21 that there was an index as early as 1941, following World
22 War II, that individuals were detained with warrants that
23 had been prepared by the Department of Justice.

24 THE COURT: Is that responsive to your question?

25 THE WITNESS: Yes --

1 MR. WHITE: It tends to be, but I need to develop
2 it a little bit, Your Honor.

3 Q. (By Mr. White) It's your belief, sir, that the
4 Security Index was established by the Department of Justice
5 or at least known about by the Department of Justice?

6 A. Yes, sir.

7 Q. Were there procedures and requirements pertinent
8 to the manner in which the Security Index was formulated,
9 in which the Security Index matters were handled?

10 A. That was a -- there was a criteria, and there was
11 a procedure for the recommendation and for the maintenance
12 of this. I have no firsthand familiarity with it.

13 Q. Do you know at what level within the Justice
14 Department or within the Federal Bureau of Investigation that
15 those procedures and criteria were established?

16 A. No.

17 Q. Were they established by you?

18 A. No, sir.

19 Q. Were they established at a level superior to you?

20 A. Yes.

21 Q. Would it have been in the Washington field office
22 or at the FBI headquarters?

23 A. It would have been at the FBI headquarters.

24 Q. Do you have any knowledge as to whether or not
25 there were communications between the FBI headquarters and

1 the Department of Justice relevant to the standards,
2 procedures, and criteria?

3 A. I have no knowledge of it.

4 Q. Sir, was it your belief at the time that the
5 Security Index was lawful and proper?

6 A. Yes, sir.

7 Q. And what was the basis for that belief, sir?

8 A. The fact that it was a procedure that was administered
9 by the FBI headquarters with the approval of the Department
10 of Justice.

11 Q. Now, sir, you mentioned that there would be names
12 that would be included on this index. Would you personally
13 review each recommendation that a name be placed on the
14 index or that it remain on the index?

15 A. No, sir.

16 Q. Who in the Washington field office would approve
17 those names?

18 A. Well, the case agent would do the work, and then
19 his supervisor would approve it.

20 Q. So as a routine matter the particular names would
21 not be submitted to you for your approval?

22 A. No, sir.

23 Q. Going back, sir, to your knowledge or involvement
24 in particular investigations, which we were discussing earlier,
25 when an agent interviewed a person, whether he was a subject

1 or perhaps somebody who would have information pertinent to
2 an investigation, would you be routinely advised of that
3 interview?

4 A. No, sir.

5 Q. Did the procedures require that you be told about
6 such an interview?

7 A. No, sir.

8 Q. I would like to show you a document, sir, which
9 has been identified as Federal Defendants' Exhibit Number 33.
10 Would you describe that document to the jury, please?

11 A. This is a memorandum to the SAC of the Washington
12 field office from S.A. William T. Tucker. It's dated
13 February 14, 1973, and the subject matter is Richard Pollock.
14 It says that Mr. Pollock was interviewed by Tucker and special
15 agent Robert Golden on February 1, 1973; that the purpose
16 was to evaluate Pollock's potential as a source. They
17 spoke with him for two and a half hours. He was cordial
18 and friendly at the outset --

19 Q. I'm sorry, Mr. Jones, it's not necessary to read
20 the document.

21 A. All right.

22 Q. Does this document relate apparently to an inter-
23 view that occurred between two agents and another person,
24 one Richard Pollock?

25 A. Yes, sir.

1 Q. Were you at the time -- what was your position in
2 February of 1973?

3 A. I was a security coordinating supervisor.

4 Q. To the best of your recollection, how many agents
5 were under your jurisdiction at that time among the nine
6 squads or however many there were.

7 A. I would say about 175 agents.

8 Q. Were you aware at that time that this interview
9 had occurred?

10 A. No, sir.

11 Q. Were the agents under an obligation to inform you
12 of this interview?

13 A. No, sir.

14 Q. When, to the best of your recollection, had you
15 become aware that this interview occurred as related in this
16 document?

17 A. Earlier this afternoon.

18 Q. This morning?

19 A. Yes, I guess it was this morning.

20 Q. Sir, do you recall whether the Counterintelligence
21 Program - New Left or the Counterintelligence Program - Black
22 Nationalist Hate Groups was existing in February of 1973?

23 A. I really don't remember.

24 THE COURT: What is the date of that document again?

25 MR. WHITE: Which document, sir?

1 THE COURT: The one he is referring to.

2 MR. WHITE: This is February --

3 THE WITNESS: 14, 1973, Your Honor.

4 Q. (By Mr. White) Now, Mr. Jones, were you in the
5 courtroom this morning when Mr. Pangburn was testifying?

6 A. Yes, sir.

7 Q. Did you hear his testimony regarding his meeting or
8 conversation or whatever -- I'm not sure how to characterize
9 it, but his meeting with the plaintiff Reginald Booker?

10 A. I did.

11 Q. Sir, when was the first occasion upon which you
12 became aware of that interview between Mr. Pangburn and Mr.
13 Booker?

14 A. Sometime during this trial.

15 Q. Was Mr. Pangburn or Mr. Aldhizer under an obligation
16 to inform you that that interview had occurred?

17 A. No, sir.

18 Q. Now, sir, you'll notice on the exhibit that I
19 showed you -- well, if you would state for the jury who is
20 that memorandum from, and to whom is it addressed?

21 A. This is addressed to the SAC, WFO, and it's from
22 special agent William T. Tucker. All of the documents to be
23 filed at our office were addressed to the SAC as opposed to
24 one being sent to some other office or else FBI headquarters.

25 Q. Well, you may have answered this question, but I'll

1 ask it anyway: Does the designation "SAC," being the person
2 or the addressee on this memorandum, necessarily mean that the
3 SAC saw this?

4 A. It does not. As a matter of fact, it was in the
5 lock stamp for filing purposes, there are the initials of
6 J.P., which are those of John Palmer, who was the supervisor
7 of this squad in 1973.

8 Q. I would like to show you, sir, Plaintiffs' Exhibit
9 Number 36, which is in evidence. I would like you to look
10 at page 2 of this exhibit.

11 THE COURT: What is the exhibit that you just
12 took from him, what was the number of that?

13 MR. WHITE: I beg your pardon, Your Honor?

14 THE COURT: What was the exhibit that he addressed
15 a moment ago?

16 MR. WHITE: That was Federal Defendants' Exhibit
17 Number 33.

18 THE COURT: Thank you.

19 Q. (By Mr. White) Mr. Jones, I asked you earlier
20 whether you had any recollection as to whether the counter-
21 intelligence programs were in existence in February of 1973.
22 Does this document refresh your recollection as to that issue?

23 A. Yes, sir. This document is dated -- looks like
24 January 28, 1971, and it says, "Effective immediately all
25 COINTELPRO programs operated by the Bureau are being

1 discontinued."

2 Q. Looking again at the date, does it appear that the
3 date is April of --

4 A. It could be April, it could be January. This is
5 a very poor copy. It probably is -- I can't tell.

6 Q. Thank you, sir.

7 Mr. Jones, in your capacity as the security
8 coordinator supervisor, did you have the authority to be
9 a final approving authority for any counterintelligence
10 program action?

11 A. No, sir. An action that had been approved by the.
12 FBI headquarters?

13 Q. I'm sorry, I guess that question came out of left
14 field.

15 With regard to any proposal made or prepared by an
16 agent in one of the squads that you were supervising, did
17 you have authority to be the final -- or did you have the
18 capacity to be the final approving authority for any
19 counterintelligence program action?

20 A. No, sir, because the headquarters had that respon-
21 sibility.

22 Q. Was that responsibility an essential element of
23 the program?

24 A. Yes, sir, very much so.

25 Q. Now, sir, do you recall when you first became aware

1 of the existence of this lawsuit?

2 A. The papers were left at my home in the doorway in
3 December of 1978.

4 Q. Did you have any knowledge prior to that that this
5 lawsuit was in existence or had been filed?

6 A. I had heard that there was a suit, but I didn't
7 know who was involved.

8 Q. Did you have any knowledge of the subject matter
9 of the lawsuit?

10 A. Oh, no, sir.

11 Q. What was the nature of the papers that you received
12 in December of 1978?

13 MS. PILSBURY: Could I object subject to a proffer
14 of relevancy?

15 THE COURT: Do you want to make it from there?

16 MR. WHITE: I simply wanted to establish, Your
17 Honor, the plaintiffs' knowledge -- I'm sorry, the defendant's
18 knowledge of the lawsuit, when he became aware of it, and the
19 disposition of the lawsuit since that time.

20 THE COURT: Why is that relevant?

21 MR. WHITE: Well, his knowledge of the lawsuit
22 would be relevant to the issue of statute of limitations
23 under Rule 15. The issues following that I must concede are
24 probably not relevant.

25 THE COURT: The objection is sustained, and we'll

1 adjourn now until 1:45, ladies and gentlemen.

2 - - -

3 Whereupon, the jury left the courtroom.

4 - - -

5 Whereupon, the following proceedings were had out
6 of the presence and hearing of the jury:

7 MR. BARCLAY: Your Honor, there appears to be a
8 possibility that the Federal defendants' case would be
9 completed this afternoon. In that event, I would request
10 that we, the District defendants, be allowed to begin our
11 case in the morning as opposed to this afternoon.

12 THE COURT: That'll be fine.

13 - - -

14 Whereupon, the Court recessed for lunch.

15 - - -

THURSDAY AFTERNOON SESSION

December 10, 1981

P R O C E E D I N G S

Whereupon, the following proceedings were had out of the presence and hearing of the jury:

THE COURT: Mr. Jones, you may resume the chair.

- - -

Whereupon, the following proceedings were had in the presence and hearing of the jury:

MR. WHITE: Your Honor, I have no further questions. I do have a motion regarding admission into evidence of Federal defendants' Exhibit Number 33.

Now, Your Honor, this exhibit is included in one of the plaintiffs' exhibits which has already been admitted, but I want to identify the document separately because of the testimony regarding --

MS. PILSBURY: We have no objection, Your Honor.

THE COURT: Remind me what Plaintiffs' 36 referred to.

MR. WHITE: Plaintiffs' Exhibit 36?

THE COURT: Did you not make a reference in this testimony to Plaintiffs' 36, or did I misunderstand?

MR. SCHEMBER: Your Honor, I know what that exhibit is.

MR. WHITE: Your Honor, Exhibit Number 36 is in

1 evidence and is a memorandum relating to the counter-
2 intelligence programs.

3 THE COURT: Thank you.

4 33 is admitted into evidence.

5 - - -

6 Whereupon, Federal Defendants' Exhibit Number 33
7 was admitted into evidence.

8 - - -

9 MR. WHITE: We have no further questions.

10 THE COURT: Cross examination?

11 MS. PILSBURY: Thank you, Your Honor.

12 - - -

13 CROSS EXAMINATION

14 By Ms. Pilsbury:

15 Q. Mr. Jones, in order to get a clear picture of
16 exactly what your responsibilities were, during the lunch
17 break I drew a little chart. I wonder if -- can you see it
18 from where you are?

19 THE COURT: Why don't you show it to him before you
20 show it to the jury, and let's get it qualified before you
21 exhibit it.

22 THE WITNESS: Yes.

23 Q. (By Ms. Pilsbury) Could you take a second and see
24 if that seems to be accurate?

25 A. Yes.

1 Q. This has been marked for identification as
2 Plaintiffs' 109.

3 Now, you were the security coordinator; is that
4 correct?

5 A. Yes.

6 Q. Under your box I have drawn nine boxes which
7 represent the nine squads that you supervised; is that correct?

8 A. Yes.

9 Q. Would there be an approximately equal number of
10 squads over on the criminal side?

11 A. Well, it was criminal and other, and as to the
12 number of squads I don't think it was quite nine, but roughly
13 there was similarity.

14 Q. Are there any major offices that I have left out,
15 or that should be added, in terms of the relationship between
16 you and the people under you and headquarters?

17 A. No.

18 MS. PILSBURY: I would move this into evidence,
19 Your Honor, Plaintiffs' Exhibit 109.

20 MR. WHITE: No objection, Your Honor.

21 THE COURT: Very well, received.

22 - - -

23 Whereupon, Plaintiffs' Exhibit Number 109 was
24 admitted into evidence.

25 - - -

1 THE COURT: You can continue your examination.

2 MS. PILSBURY: Thank you, Your Honor.

3 THE COURT: Are you going to use it now?

4 MS. PILSBURY: I may. Did you want to see it,
5 Your Honor?

6 THE COURT: Go ahead.

7 Q. (By Ms. Pilsbury) Now, I believe you indicated
8 that at one point back in I think you said 1967 or 1968, you
9 took some agents from the Soviet bloc squads and put them
10 onto the New Left squad; is that correct?

11 A. Yes, ma'am.

12 Q. And that would be squad 7 at that time?

13 A. Squad_7 was created, and -- and we took agents
14 from S-5 and from some of the other squads, such as the
15 Soviet block squads.

16 Q. Was S-7 one of the largest squads?

17 A. No, I think it was probably comparable to the
18 others. There may have been a few more men, but I don't
19 think it was larger really.

20 Q. You've indicated there came a point in time where
21 it was necessary to split S-7 up into two squads.

22 A. To split S-5 up into two squads.

23 Q. S-5. Was that because it became too large?

24 A. Yes.

25 Q. About when did this happen?

1 A. I can speculate, but it was in -- about 1968.
2 What happened was as work increased on S-5, I put more agents
3 on S-5, and soon it became just too big for only one super-
4 visor. By that time S-5 probably had 35 agents on it. So
5 it was split, and S-7 was then created.

6 Q. I see. At the time S-5 had 35 agents on it, what
7 was its responsibility?

8 A. Its responsibility would have been extremism in
9 black and white and New Left.

10 Q. I see, and then at a separate point, a separate
11 New Left squad was created?

12 A. Yes.

13 Q. Approximately when, do you recall?

14 A. I don't recall the date, but let's say '68, '69 --
15 '67, '68, '69.

16 Q. In 1967 or 1968, how many major demonstrations,
17 large demonstrations, against the war in Vietnam had there
18 been in Washington, D.C., do you recall?

19 A. I don't recall that. They all sort of run together
20 with me now. I just don't remember.

21 Q. Do you remember whether there had been any?

22 A. I can't say.

23 Q. So in your mind, the creation of the New Left
24 squad might have preceded the major demonstrations?

25 A. Possibly.

1 Q. In regard to Squad 5, which at one point had
2 responsibility for racial extremist matters, did you indicate
3 that this was both black and white extremists?

4 A. Yes.

5 Q. About what percentage of the time of Squad 5 was
6 spent on white extremist matters?

7 A. I don't know.

8 Q. Was it less than the amount of time they would
9 have spent on black extremist matters?

10 A. Well, I can speculate. The American Nazi Party
11 was very active during some period there. It's my recollection
12 that that squad was also interested in the Cuban situation,
13 Americans going down to Cuba. So I just really can't say.
14 The reason I can't say is because I just don't know.

15 Q. Now, as security coordinator, you were responsible
16 for the implementation in the field office for COINTELPRO
17 projects, were you not?

18 A. That is correct.

19 Q. Did each of these squads have a COINTELPRO
20 coordinator in them?

21 A. There were some COINTELPROs in the espionage
22 field, but I don't remember who they were and such. But for
23 our purposes here, there was one on Squad 5, and then there
24 was one on Squad 7.

25 Q. Some of these other squads might not have been

1 involved with COINTELPRO at all?

2 A. The other squads should not have been involved
3 in the COINTELPRO extremists and also New Left.

4 Q. Now, you indicated that -- in reference to mail --
5 that some mail would go directly from the field office to
6 headquarters without going across your desk; is that correct?

7 A. Yes.

8 Q. Would this be the more routine sort of thing, or
9 what type of mail would go directly --

10 A. Generally speaking.

11 Q. Were COINTELPRO projects considered routine?

12 A. Yes and no. It was a Bureau-approved program.
13 Since it was a Bureau-sponsored and approved program, I
14 wanted to see what we were doing in that program because
15 programs are programs. Some of the mail was perhaps sent
16 out without my seeing it, and then I probably saw a good
17 percentage of the mail.

18 Q. Now, when the Bureau would send back directions to
19 the field about how to carry out COINTELPRO --

20 A. I generally saw those.

21 Q. And wouldn't it be part of your job to make sure
22 that information got down to the squads?

23 A. Oh, yes.

24 Q. And so in other words, when the Bureau created
25 these two COINTELPROs that we've been talking about and said

1 that the purpose was to disrupt and to neutralize the
2 activities of Black Nationalists and the New Left, it was
3 part of your job to see that that, in fact, was carried out?

4 A. Yes.

5 Q. You have indicated that many of the COINTELPRO
6 projects crossed your desk on the way to headquarters.
7 In order for them to go from the field office to headquarters,
8 they would need your sign-off, would they not?

9 A. Usually, yes.

10 Q. Isn't it true that it was common practice in the
11 FBI at that time that if you put your initials next to your
12 name, that indicated approval, that you had seen it?

13 A. Yes. ---

14 Q. Did it indicate approval as well as the fact that
15 you had seen it?

16 A. It depends where the initials were. If the
17 initials were up by SAC, that meant approval. If they were
18 down below, it means that you perhaps approved it, or you
19 saw it after it was sent out. In this instance --

20 Q. Excuse me, let me clarify what we are talking
21 about.

22 Mr. Jones, I've shown you a copy of the document
23 marked as Plaintiffs' Exhibit 20-1, which is in evidence,
24 which is a memo from the field office to the FBI dated
25 9-24-69. In that instance --

1 A. I approved it.

2 Q. And this is the memo regarding Julius Hobson?

3 A. Yes.

4 Q. Now, following this line on a little further,
5 after you approved a project and it went to headquarters,
6 then it would come back to you for implementation if they
7 approved it; is that correct?

8 A. Yes.

9 Q. So you would see the thing both going and coming?

10 A. I should see it, yes.

11 Q. Did most COINTELPRO ideas originate in the field .
12 and go up to headquarters for approval, or did they originate
13 in headquarters and come down?

14 A. I can only answer that question on the basis of
15 the testimony that I have heard here.

16 Q. You have no personal idea based on your experience?

17 A. It's my recollection that we did not send very
18 many suggestions in.

19 Q. Go ahead.

20 A. The one that you just showed me was one that came
21 from the field office. Harry Ervin is the author of that,
22 Special Agent Harry Ervin. That one started in the field
23 office.

24 Q. Is it your recollection that that's an exception?

25 A. No, it is not my recollection that that is an
exception, but I have heard testimony in the courtroom

1 concerning others -- that were actually instituted in New
2 York and were instigated at Bureau headquarters. I'm saying
3 that.

4 Q. In other words, you're saying that sometimes they
5 would be instigated in the field, and sometimes at
6 headquarters --

7 A. Yes.

8 Q. -- and at this point you can't really say who did
9 more?

10 A. That is correct.

11 Q. Now, you have testified that COINTELPRO - New
12 Left and COINTELPRO - Black Nationalist was -- that you were
13 not the creator of these programs.

14 A. Yes.

15 Q. You were simply involved in implementing them.

16 A. Yes.

17 Q. Is it not correct that you were in a position to
18 veto specific proposals --

19 A. Yes.

20 Q. -- for actions?

21 A. Yes.

22 Q. Now, when you did review these proposals as they
23 were on their way to headquarters, what was it you were
24 looking for, if anything?

25 A. I suppose I was looking to see if the idea fit the

1 criteria that had been set out.

2 Q. Would you also be checking to see if this appeared
3 to be a project that could be carried out without embarrassment
4 to the Bureau?

5 A. Possibly.

6 Q. Was that something that was often discussed in
7 memos?

8 A. I don't remember it.

9 Q. Were you ever instructed to check and see if these
10 proposals interfered with the rights of any groups to engage
11 in political protest?

12 A. No.

13 Q. Do you recall whether it ever crossed your mind
14 that it might?

15 A. I would think that I was certainly aware of the
16 right to assemble, and that I took that in, and I also
17 considered it.

18 Q. Do you recall any discussions at that time about
19 how these projects might affect the right of people to
20 assemble?

21 A. I don't recall these discussions.

22 Q. If you did consider such things, you didn't
23 discuss them with anyone else?

24 A. I can't say that I did, and I can't say that I
25 did not, because I just don't remember those things.

1 Q. Mr. Jones, let me ask you a couple of questions
2 about the Security Index.

3 Am I correct in assuming that the Security Index
4 was something maintained at headquarters primarily?

5 A. Let me say this: I don't claim to be an expert
6 on the Security Index. I would like for the record to
7 please show that.

8 Q. Okay.

9 Did you have anything to do with the Security
10 Index?

11 A. I don't remember seeing anything that had to do
12 with the Security Index for years, and years, and years.
13 Now, I have a general overall knowledge of the purpose of the
14 program. I have a general -- and it is very, very general --
15 as to how it operated.

16 I'm sorry, what was the question?

17 Q. My question was wasn't it something that was
18 maintained at headquarters?

19 A. As I understand it, the names were maintained in
20 the field office, at the headquarters, and at the Department
21 of Justice. Now, I could be wrong on that.

22 Q. Do you recall having such a list as security
23 coordinator --

24 A. I don't ever -- I have no recollection of seeing the
25 Security Index in the field office.

1 Q. Do you have any recollection of papers crossing
2 your desk proposing that people be included in this Security
3 Index?

4 A. No. I do have recollections of correspondence
5 from the Bureau that would be in the incoming mail that would
6 say this individual does fit the criteria, this individual
7 doesn't, add this name, or delete that, and so forth.

8 Q. Would these be communications to the field office?

9 A. Yes.

10 Q. Well, what would you do with them when you got
11 such a directive?

12 A. I would send them to the supervisor.

13 Q. Of the squad?

14 A. Yes, ma'am.

15 Q. So the Security Indexes were being maintained
16 at the squad level?

17 A. It's my recollection -- but to answer your -- let
18 me answer it in this way: It is my recollection that one of
19 the clerks on that squad who had many, many duties also had
20 the responsibility of putting cards in and taking cards out
21 of the index. Insofar as I know, it's just a little box.

22 Q. Do you have any knowledge as to whether or not the
23 Security Index was cross referenced so that headquarters
24 would know who was being put on and off the Security Index at
25 the squad level?

1 A. I don't think you understood me. The Bureau
2 headquarters had to approve it. They had to approve this
3 little card.

4 Q. And then a card would be made up --

5 A. Yes, um-hum.

6 Q. But was identifying people for this list part of
7 your responsibilities, or were they all identified at head-
8 quarters, and you just made up the card?

9 A. It's my recollection that on the basis of the
10 information that we developed that we would recommend that
11 so and so would be put on the Security Index, or if we
12 didn't recommend it, and if the Bureau felt that that name
13 should be on the Security Index, the Bureau would come back
14 and say consider Joe Blow for the Security Index.

15 Q. They would indicate that the field office should
16 consider him?

17 A. The Bureau made us do all the work.

18 MS. PILSBURY: I have no further questions, Your
19 Honor.

20 - - -

21 REDIRECT EXAMINATION

22 By Mr. White:

23 Q. Mr. Jones, in your capacity as the security
24 coordinating supervisor, did you have the authority to
25 order the Washington field office or the agents under your

1 command not to comply with the counterintelligence program?

2 A. I did not.

3 MR. WHITE: I have no further questions.

4 THE COURT: Recross?

5 MS. PILSBURY: No, Your Honor.

6 THE WITNESS: Thank you, sir.

7 THE COURT: Call your next witness.

8 MR. WHITE: Your Honor, we would call George
9 C. Moore.

10 - - -

11 GEORGE C. MOORE

12 recalled as a witness on behalf of the Federal defendants,
13 and having been previously duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 By Mr. White:

16 Q. Sir, would you state your name to the jury, please?

17 A. My name is George C. Moore.

18 Q. Sir, I want to go over a few items that you
19 testified about earlier simply for the purpose of refreshing
20 the recollection of the Court and jury.

21 When were you first employed by the Federal Bureau
22 of Investigation?

23 A. I came to work first for the FBI in November of
24 1941.

25 Q. How long did you remain with the FBI?

1 who had subversive tendencies, primarily members of the
2 Communist Party.

3 Q. How long were you chief of the section having that
4 responsibility?

5 A. Just a few weeks.

6 Q. What occurred at that point?

7 A. There was a reorganization and the work in that
8 section was put in another section called the Internal
9 Security Section, and work from the Internal Security
10 Section along with some of the work that had been in the
11 Subversive Control Section was consolidated into a new
12 section called the Racial Intelligence Section.

13 Q. Were you the chief of that section?

14 A. I was the chief of that section.

15 Q. When approximately did that occur?

16 A. Sometime in September or October, I don't know the
17 exact date, of 1967.

18 Q. And that was -- I'm sorry, I might have missed
19 this. Was that called the Racial Intelligence Section?

20 A. The Racial Intelligence Section. I was only
21 section chief for the Subversive Controls Section for just
22 a few weeks. I don't remember how many, but a very few
23 weeks.

24 Q. In conjunction with the rearrangement of subject
25 matter responsibility, was there a rearrangement of personnel

(1)

(1)

1 among the sections?

2 A. There was a rearrangement of personnel. Some of
3 the personnel from the other sections came down to the Racial
4 Intelligence Section. Some remained.

5 Q. What briefly was the responsibility of the Racial
6 Intelligence Section?

7 A. The responsibility briefly of the Racial Intelligence
8 Section was to coordinate investigations which had racial
9 matter connections, and that was a broad application of the
10 term because of the fact that we had one unit in the Racial
11 Intelligence Section -- in fact, this was probably the most
12 active unit at the time -- which was the unit which dealt
13 with riots and disturbances which were taking place at the time,
14 and the job of that particular unit was to keep track, to
15 analyze the riot, the causes of the riots, to cover information
16 and intelligence information to provide to the Justice
17 Department and other agencies of the government with respect
18 to the riots that were taking place. Also it covered the
19 investigations of white hate groups such as the Ku Klux Klan,
20 the Minutemen, the American Nazi Party. We also had under
21 our responsible authority the investigation of some Puerto
22 Rican extremist groups and also Black Nationalist groups.

23 Q. How long did you remain chief of that section
24 having those responsibilities?

25 A. I remained chief of that section, which changed its



1 name a couple of times along the way, from the time I became
2 section chief until I retired in 1974.

3 Q. Now, sir, did your section have responsibility
4 during all or part of that time for a program known as the
5 Counterintelligence Program - Black Nationalist Hate Groups?

6 A. Yes, we did.

7 Q. When was that program created?

8 A. I believe the programs were in creation at the
9 time I assumed the supervision of the section.

10 Q. You mean that it was -- by the time -- do you mean
11 it was already --

12 A. It was already in place, and it was already
13 created after I became section chief.

14 Q. What was basically your responsibility in connection
15 with that program?

16 A. Well, it's my responsibility in connection with
17 that program -- was basically the same as my overall
18 responsibilities. I considered myself as section chief to be
19 the manager of a group of supervisors who supervised
20 individual investigations from the field. I coordinated
21 their work as well as helped implement policy which was
22 established by the Bureau.

23 Q. Were there occasions in which proposals under that
24 program would be prepared or come to the attention of the
25 supervisors in that section?

1 A. Yes.

2 Q. Were there occasions in which these proposals
3 would be sent to you for approval?

4 A. Yes.

5 Q. On such an occasion, what was -- let me ask you
6 this: On such occasions, where material was sent to you for
7 approval, did you have the authority to act as the final
8 approving authority for such a proposal?

9 A. In counterintelligence matters, I had no authority
10 to act as final approval.

11 Q. What would occur on a matter that you approved --
12 what would occur with regard to a proposal after you had
13 approved it?

14 A. After it was signed off from me as an approval,
15 the document would then go to my superior, who was the
16 inspector of the Internal Security Branch of the department.
17 And then after he had approved it, it would go to the
18 assistant director of the division. After he approved it,
19 it could go all the way up through other channels to the
20 director of the FBI for final approval.

21 Q. At your level as section chief, did you have the
22 authority to disapprove of a proposal; in other words, to
23 veto a proposal?

24 A. I never thought I had the authority to disapprove
25 anything that originated in the field, although I could make



1 my views known, as anybody could, along that line.

2 Q. Did you have the authority to --

3 A. Incidentally, let me follow through on that. We
4 did not have to approve everything that came from the field.
5 A supervisor himself could disapprove it, and there would be
6 a rejection of the proposal, and I would approve that as it
7 went through.

8 Q. Approve the --

9 A. Approve the disapproval.

10 Q. Did you have the authority as section chief to
11 order your supervisors or send directives to the field office
12 that the Counterintelligence Program - Black Nationalist
13 Hate Groups not be implemented?

14 A. No, I did not have authority.

15 Could I ask you to repeat that question one more
16 time?

17 Q. The question, sir, was whether you had authority
18 as section chief of that section to direct that the super-
19 visors working in your section, or to direct the field
20 offices of the Bureau that they not implement the counter-
21 intelligence program?

22 A. Of course not. I did not have that authority.

23 Q. Sir, is the term "mass media program" familiar to
24 you?

25 A. It is familiar to me, yes.

1 Q. Would you briefly describe what that program is or
2 was?

3 A. It is my recollection that the Mass Media Program
4 was a program which was instituted to provide information
5 which would be prepared for dissemination to the news media
6 and was initiated primarily to help out a division of the
7 Bureau, which was the Public Affairs Division, Crime Records
8 Division, in order to assist them with their contacts with
9 the press.

10 Q. Was there an agent, or an agent supervisor I think
11 is the term you used, in your section who had particular,
12 or was assigned particular, responsibility for the Mass
13 Media Program?

14 A. I do not know whether we had a particular super-
15 visor for the responsibility of Mass Media, but I believe we
16 did. I believe that's one of his responsibilities, but I'm
17 not positive of that.

18 Q. Are you thinking now, sir, of a particular person?

19 A. Yes, I think it was the same person who had the
20 responsibility for the coordination of the COINTELPRO program.

21 Q. What was his name, sir?

22 A. His name was Mr. Deakin, D-e-a-k-i-n.

23 Q. Now, in connection with the Mass Media Program,
24 what was basically your responsibility and your authority
25 with regard to any proposals made by Mr. Deakin or anyone else

1 in your section?

2 A. I had no authority to approve it in its final form,
3 but I was a channel through which this material which was
4 prepared went along signature mail channels, and I would
5 sign it, and it would go to my immediate superior, who was
6 again the inspector of the Internal Security Branch.

7 Q. To the best of your recollection, what level in
8 FBI headquarters was there final authority to approve such
9 a proposal or recommendation within the Mass Media Program?

10 A. It's my recollection in the Mass Media Program
11 that final place of approval could be somewhere above the
12 assistant director's area, usually the assistant to the
13 director and above, and in many instances the director. I
14 am not aware of any policy that said that everything had to
15 go to the director in that regard.

16 Q. Was the Racial Intelligence Section the only
17 section that had responsibility under the Mass Media Program?

18 A. No, all the sections, as far as I'm aware, had input
19 into that program.

20 Q. Now, sir, does the term "Agitator Index" mean
21 anything to you?

22 A. Yes, I'm familiar with that term.

23 Q. Could you describe -- was that index in existence
24 at the time you were assigned to be chief of the Racial
25 Intelligence Section?

1 A. I'm not sure when the Agitator Index was instituted,
2 whether it was in existence when I became section chief or
3 not, but I'm generally aware that the Agitator Index was
4 initiated somewhere around the time that I became section
5 chief in the fall of 1967.

6 Q. Do you have knowledge as to the circumstances
7 under which the index was created?

8 A. It is my recollection that the index was created
9 along this line: There was a commission appointed by the
10 President of the United States to look into the causes of
11 violence. Many riots had taken place in '67 and '68, and
12 the causes of the violence, the President ordered a study to
13 be made, and this commission was formulated. One of the
14 witnesses before the commission was Mr. Hoover, and when Mr.
15 Hoover testified -- and this is hearsay, I didn't see the
16 document, I don't recall seeing the document --

17 THE COURT: I don't want hearsay, Mr. White.

18 MR. WHITE: Well, I guess we're at an impass. I
19 was not offering it to demonstrate the truth of the matter
20 asserted, I thought it would be helpful to understand the
21 way it was created.

22 THE COURT: Well, I don't think it is evidence. If
23 you can get the document in here and show it to him, that
24 would be fine, but that is a bad word, hearsay.

25 MR. WHITE: I'll see what I can do.

1 Q. (By Mr. White) Mr. Moore, did the idea for the
2 index originate within your section?

3 A. The idea for the index did not originate in my
4 section.

5 Q. At what level in the FBI did it originate?

6 A. It originated with Mr. Hoover.

7 Q. What was the function of the Agitator Index?

8 A. The function of the Agitator Index was to have a
9 method of tabulating individuals who had a propensity for
10 fomenting violence either through actions or statements;
11 for the most part, those individuals who might travel from .
12 area to area.

13 Q. Did the Agitator Index have a name other than that
14 when it was first created?

15 A. When it was first created, it was called the
16 Rabble-Rouser Index.

17 Q. What was the responsibility, if any, for the
18 field offices with regard to the Rabble-Rouser or the Agitator
19 Index?

20 A. I believe the field was instructed to submit
21 names of those individuals who should be included in this
22 tabulation.

23 Q. And what was the responsibility of your section with
24 regard to the submissions made by the Washington -- I'm
25 sorry, by any field office in terms of the Agitator Index?

1 A. To scrutinize the submissions to see if they met
2 the criteria of the type of individual that I just mentioned.

3 Q. Was that done by persons in your section?

4 A. It was done by the individual supervisors in the
5 section.

6 Q. Did you have the responsibility of personally
7 approving names to go into the index?

8 A. I don't recall whether I did. Some of the mail
9 could have come over my desk, but not all of it necessarily.

10 Q. Was the authority for placing a name on the index,
11 was the final authority for placing a name on the index in .
12 your section, or was it necessary to have it approved at a
13 higher level?

14 A. At this point I don't remember whether a higher
15 authority was needed, but it's my recollection that a higher
16 authority was needed to put a person on the Agitator Index.

17 Q. Now, sir, to your knowledge, was the existence of
18 the index known to the Department -- to any component of the
19 Department of Justice or to any other agencies outside the
20 FBI?

21 A. Certainly the index was known to the commission
22 where Mr. Hoover was testifying the day when the name first
23 came up, and the Department of Justice should have known
24 about it through that testimony.

25 Q. Now, sir, switching now to the subject of electronic

1 surveillance, did your section, the Racial Intelligence
2 Section, at any time have responsibility for receiving from
3 the field offices the recommendations for electronic surveil-
4 lances?

5 A . We did.

6 Q. Generally what was the subject matter of the
7 electronic surveillances over which your section had
8 responsibility?

9 A. The surveillances over which we had responsibility
10 for the most part were surveillances over the Black Panther
11 Party.

12 Q. I'd like to show you an exhibit in evidence,
13 marked as Plaintiffs' Exhibit Number 47, and ask you to
14 examine that.

15 Have you had an opportunity to examine that, Mr.
16 Moore?

17 A. Yes.

18 Q. Have you seen this document before?

19 A. Yes, I have.

20 Q. Does it bear your initials as having personally
21 seen it at the time it was --

22 A. It does.

23 Q. Would you please describe for the jury the nature
24 of this document?

25 A. This is a memorandum from G.C. Moore to Mr. W. C.

1 Sullivan, caption "Black Panther Party, National Committee
2 to Combat Fascism, Washington Field Office, Racial Matters,"
3 and it's dated May 20, 1970. The memorandum shows that the
4 purpose of writing this particular memorandum was to
5 recommend that an attached memorandum be directed to the
6 Attorney General of the United States requesting authority
7 to institute the telephone surveillance of the office of the
8 Black Panther Party front group, which was called the
9 National Committee to Combat Fascism in Washington, D.C.

10 Q. Mr. Moore, at this time -- what is the date of
11 this document?

12 A. This document is dated May 20, 1970.

13 Q. Sir, at this time what was your understanding of
14 the nature of the -- of what the law required as to the
15 approval of surveillances such as the one being recommended
16 on the Black Panther Party?

17 A. This was considered to be a security type telephone
18 surveillance, and it was my understanding that once it is
19 approved by the Attorney General, that was all the authority
20 that was necessary.

21 Q. What was the basis for your understanding in that
22 connection, Mr. Moore?

23 A. I had been told that by my superiors, of course,
24 and --

25 Q. Did you believe, sir, that the Black Panther Party

1 or that an electronic surveillance on the Black Panther
2 Party was necessary for -- strike that.

3 Let me show you another document which has been
4 marked as Plaintiffs' Exhibit 48, and ask you to examine that.

5 Sir, from your examination of this document, does
6 it relate to the subject matter of Exhibit 47?

7 A. Yes, it definitely relates to it.

8 Q. I would like you to look, please, sir, at the second
9 and third pages of Exhibit 48.

10 A. Okay.

11 Q. Would you state for the jury what that document is,
12 including the date?

13 A. This is a memorandum prepared for the Attorney
14 General's approval. It's a request concerning the Black
15 Panther Party, National Committee to Combat Fascism,
16 Washington Field Office, and it's a request to put a
17 telephone surveillance on this particular front group of
18 the Black Panther Party located at 2387 18th Street, N.W.,
19 Washington, D.C.

20 Q. Does a signature appear on the second page?

21 A. On the second page is a signature -- what should
22 be the signature of the Attorney General at the time, but I
23 can't read his writing.

24 Q. Well, the copy is not too good, and I apologize
25 for that.

1 Does the -- what is the significance of the signature
2 of the Attorney General on this memorandum?

3 A. The significance of the signature of the Attorney
4 General is this telephone surveillance could not have been
5 instituted without his approval, and his approval constituted
6 authority to install the surveillance.

7 Q. Now, sir, what, to the best of your recollection,
8 were the activities of the Black Panther Party which, in
9 your view, constituted a threat to the national security or
10 to the structure of the government?

11 A. Well, essentially it's pretty well stated in this
12 memorandum, which is Exhibit 47, and that is my recollection
13 also. It states that the Black Panther Party at that time
14 was the most violent black organization on the scene at
15 that time and represented a most serious threat to the internal
16 security of the country as a result of its revolutionary
17 aims. It was a violence-prone organization which demonstrated
18 through its activities on almost a daily basis its violence.

19 Q. Now, sir, I'd like to return briefly to the matter
20 of the responsibility of your section, and I will show you --
21 I want to show you Federal Defendants' Exhibits 3, 5, and 22.
22 Looking first, sir, at Exhibit 3 --

23 MR. WHITE: Your Honor, would it be necessary for
24 us to hand up copies of these?

25 THE COURT: I'm familiar with it, what you're

1 talking about.

2 Q. (By Mr. White) Mr. Moore, would you please
3 describe this document to the jury?

4 A. Defendants' Exhibit Number 3 is a memorandum
5 written by the Attorney General of the United States at
6 the time -- his name was Mr. Ramsey Clark -- a memorandum
7 for the FBI dated September 14, 1967.

8 You want me to explain the contents?

9 Q. If you can, briefly explain what the document --
10 the memorandum --

11 A. Briefly what the document says, points out the
12 concern of the violence which was sweeping the country at the
13 time, and the Attorney General, Mr. Clark, stated that he
14 recognized that the Bureau was doing quite a bit and was
15 alert to the problem of gathering intelligence, but that
16 there seemed to be a widespread belief that there was a lot
17 more taking place in America as far as the riots and violence
18 was concerned --

19 MR. SCHEMBER: Excuse me, Your Honor, I would like
20 to object to Mr. Moore's sort of looking at the document
21 and characterizing its contents. If Mr. White wishes to have
22 the document moved into evidence, then the document can
23 speak for itself.

24 THE COURT: I think what Mr. White really wanted --
25 and there is no way for the witness to know unless he told

1 him -- just to say what the operative effect of the document
2 was.

3 MR. SCHEMBER: I have no objection to that type
4 of thing.

5 THE COURT: Okay, let's try it that way.

6 THE WITNESS: I understand, Your Honor.

7 This is a document from the Attorney General
8 which points out the situation that existed in the country
9 at that time with respect to the riots and the violence, and
10 it pointed out that he recognized that the FBI had been
11 doing --

12 MR. SCHEMBER: Your Honor, he is doing it again --

13 THE COURT: Did the document authorize or direct
14 anything?

15 THE WITNESS: Yes.

16 THE COURT: That's what I think we want to hear
17 about.

18 THE WITNESS: What the document does, it points
19 out to the FBI the need for doing much more than is being
20 done, or was being done to collect intelligence concerning
21 racial matters at that time.

22 Q. (By Mr. White) Mr. Moore, we have been having a
23 little difficulty getting at this. I'd like to direct your
24 attention to page 2 of this memorandum, and would ask you to
25 read the last full paragraph on page 2, beginning with --

1 well, I'll indicate it for you --

2 A. This paragraph reads as follows: "There persists,
3 however, a widespread belief that there is more organized
4 activity in the riots than we presently know about. We
5 must recognize, I believe, that this is a relatively new
6 area of investigation and intelligence reporting for the
7 FBI and the Department of Justice. We have not heretofore
8 had to deal with the possibility of an organized pattern of
9 violence constituting a violation of federal law by a group
10 of persons who make the urban ghetto a base of operation, and
11 whose activities may not have been regularly monitored by
12 existing intelligence sources."

13 Q. Now, Mr. Moore, to your recollection, did you see
14 this document at or about the time that it was transmitted to
15 the FBI?

16 A. I recall the document very well.

17 Q. What is your recollection as to the circumstances
18 of your seeing it?

19 A. I recall the document and circumstances. This
20 document came to my attention shortly after I became the
21 designated section chief of the section. It came to my
22 attention in the form of what was called a "Director's
23 special" to be answered for the preparation of an answer to
24 the Attorney General the next working day. I had to come
25 in on a Saturday in order to help work on this particular

1 memorandum.

2 Q. That is the memorandum in response?

3 A. The memorandum -- work on the memorandum received
4 from the Attorney General as well as the memorandum in
5 response.

6 Q. Sir, what is the connection between this memorandum
7 and your responsibilities, if any, if there is any connection?
8 What is the connection between this memorandum and your
9 responsibilities as chief of the Racial Intelligence Section?

10 A. The connection of this memorancum with my
11 responsibility was that it furnishes guidelines which were
12 utilized in carrying out my responsibilities as section chief.

13 Q. I would like to direct your attention now to
14 Exhibit Number 22. Would you describe briefly for the jury
15 the nature of this document?

16 A. This is what is called an SAC letter dated
17 August 3, 1967. It is captioned, "Racial Disturbances,"
18 and the SAC letter points out that the President had formed
19 a National Advisory Commission on Civil Disorders, and it
20 alerted the field the mission of this commission was to make
21 a study to investigate the causes and origins of violence,
22 and he urged the field to cooperate in furnishing all
23 available information which would help the Commission
24 carry out its mission.

25 Q. Now, under whose authority is -- was this document

1 issued?

2 A. I do not know. It was issued under the FBI's
3 director's authority.

4 Q. Would the director have acted on this matter
5 personally? On the basis of your knowledge of the way the
6 FBI worked at that time, would the director have acted
7 personally on this letter?

8 A. It is my recollection that the director authorized
9 on every SAC letter -- it received his approval.

10 Q. Now, you stated the date --

11 THE COURT: That isn't in evidence.

12 MR. WHITE: It's Federal Defendants' Exhibit 22,
13 Your Honor.

14 THE COURT: Could I glance at it a moment?

15 Doesn't it purport to be signed?

16 MR. WHITE: Well, it bears a name, but there is --

17 Q. (By Mr. White) Now, Mr. Moore, the date of this
18 SAC letter was August 3, 1967. Was that prior to the time
19 that you were appointed to be chief of the Racial Intelligence
20 Section?

21 A. That is correct.

22 Q. What, if any, connection does this SAC letter have
23 with regard to your duties, the duties you were later
24 assigned, as chief of the Racial Intelligence Section?

25 A. This was part of the policy which was followed

1 as chief of the Racial Intelligence Section. This was
2 another part of the overall policy.

3 Q. Now, sir, directing your attention to Federal
4 Defendants' Exhibit Number 5?

5 A. Yes.

6 Q. Would you describe this document to the jury,
7 please?

8 A. This is another document which is in the form of
9 what is called an SAC letter. This particular SAC letter
10 is dated 10-17-67. It's captioned, "Racial Informants -
11 Racial Matters." It instructs the field as to the formation
12 of a new program which was called the Ghetto Informant
13 Program. It also alerted the field to the fact that there
14 was a necessity to develop additional and more intelligence
15 information regarding racial extremist matters with particular
16 emphasis on individuals who might have information as to
17 stockpiling bombs, fire bombs, and engaging in guerilla
18 warfare activities.

19 Q. Sir, again, what is the connection, if any, between
20 your duties and responsibilities as chief of the Racial
21 Intelligence Section and this document?

22 A. This is a policy memorandum which was issued to the
23 field with the approval of the director of the FBI in order
24 to carry out the responsibilities of the section in
25 gathering racial intelligence information.

1 Q. Now, Mr. Moore, regarding the various areas of your
2 responsibility as you discussed them this afternoon, can you
3 estimate the portion of your time that would have been devoted
4 to the Counterintelligence Program - Black Nationalist Hate
5 Groups?

6 A. I would say it was very small, perhaps five percent
7 or less. Probably much less.

8 Q. There has been some testimony from other witnesses
9 concerning the handling of mail and correspondence through
10 the FBI. Sir, would you be able to estimate -- would you
11 describe to the jury your responsibility, if any, in
12 connection with the handling of communications, or letters,
13 or any other form of correspondence that either came into
14 the section or was going out of the section?

15 A. Well, the section was composed of me as a section
16 chief, and I had an assistant who was called the "number one
17 man," and the section itself varies in size, and I think it
18 varied perhaps from 15 to maybe 23, or thereabouts.

19 In each one of the areas, each one of the super-
20 visors belonged to a unit, and I think that we had as many
21 as five units at any one time.

22 Mail, as it came into the section, came into the
23 section from the front office where clerical personnel
24 routed the mail, and that which was considered to be of a
25 type that a section chief should see would be routed to me for

1 my personal attention, and the rest would be routed to
2 the individual supervisors. Of course, the number one man
3 saw a lot of mail, and all the airtels, for example, were
4 seen by the number one man. Usually teletypes were seen by
5 me first.

6 As far as mail prepared in the section itself by
7 the units, by the individual supervisors, that mail was
8 prepared by the supervisor for action for approval. It
9 went from there to his supervisor in charge of the unit. It
10 went from that point if it was not signed out there -- it
11 went into the section. There it was handled either by the
12 number one man or by me, or in my absence, by whoever was
13 acting for me, which was usually the number one man. Then
14 it went up the line in accordance with prescribed procedures
15 as far as it should go according to the type of the mail
16 and, in some instances, all the way to the director of the
17 FBI.

18 Q. Now, sir, your section had responsibility -- did
19 your section have responsibility for supervising the racial
20 matter investigations occurring in field offices?

21 A. We supervised from headquarters investigations
22 that were conducted in the field offices, yes.

23 Q. Was the actual investigative activity the respon-
24 sibility of the field offices and the agents assigned to the
25 investigations?

1 Q. Now, if an agent supervisor in your section thought
2 that a field office proposal under the Black Nationalist
3 Counterintelligence Program should be disapproved, what would
4 be the customary routing of that agent supervisor's
5 recommendation of disapproval?

6 A. It's my recollection that the customary routing of
7 a recommendation would be disapproval by form of a letter,
8 and it would go through his unit chief and into our front
9 office for analysis of disapproval or approval, and as a
10 general rule it would even go higher than that, even a
11 disapproval, is my recollection.

12 Q. How high would that be?

13 A. It could be -- each person up the line could decide
14 whether he wanted to cut that off or not. When I say "cut
15 it off," send it back to the field, a disapproval.

16 Q. Who was the lowest ranking person who could cut it
17 off and send it back to the field?

18 A. I believe that perhaps the supervisor in charge
19 could, but I don't know whether any other -- I don't know if
20 anybody did or not. I believe they could, but I'm not sure
21 of the policy on that matter. I know what the policy was
22 on approval, but I'm not sure of the policy on disapproval.

23 Q. You think an agent supervisor could disapprove it?

24 A. Not an agent supervisor, his unit chief.

25 Q. The unit chief?

1497 A

1 A. I think he could, but I'm not clear on the exact
2 policy of that. But I know for the most part that even
3 disapprovals would be sent on up the line for concurrence.

4 Q. Now, let me ask you this --

5 A. Yes.

6 Q. A unit is an entity within a section?

7 A. Yes.

8 Q. So a unit is a sub-part of the section that you
9 were chief of?

10 A. That's true.

11 Q. And a unit chief, to the best of your recollection,
12 could disapprove a proposal and send it back to the field?

13 A. My recollection is hazy, and not clear on this,
14 put, but I believe that a disapproval could, if the supervisor
15 in charge of the unit wanted to, he could send it back to
16 the field, but I don't believe it was done very often.

17 Q. If your recollection is correct, then you would
18 have had similar authority, would you not?

19 A. Yes, yes.

20 Q. Mr. Moore, you also testified that in your view
21 the wiretapping of the Black Panther Party front group was
22 justified because the Black Panther Party demonstrated its
23 violence on a day-to-day basis; is that correct?

24 A. Yes, that's correct.

25 Q. I have placed before you Plaintiffs' Exhibit

1497 B

1 Number 50. Can you describe for the Court and the Jury what
2 that document is?

3 A. This is a memorandum from G.C. Moore to C.D.
4 Brennan dated August 19, 1970, entitled "Black Panther
5 Party, B.P.P., Washington, D.C., Racial Matters," and the
6 memorandum indicates that it was prepared for the purpose
7 to recommend that an attached memorandum be directed to the
8 Attorney General requesting authority to continue the tele-
9 phone surveillance on the Washington, D.C. headquarters of
10 the violence-prone B.P.P., Washington, D.C.

11 Q. This is the document, sir, is it not, by which
12 you or someone on your behalf recommended the continuation
13 of the surveillance that had previously been initiated?

14 A. This was signed by someone on my behalf, yes.

15 Q. And this document, does it not, indicates the infor-
16 mation received to date through that surveillance, which
17 purports to justify continuation of a surveillance? Isn't
18 that what the document does as well?

19 A. Yes.

20 Q. Do you see anything in this document which indicates
21 that during the course of the initial period of surveillance
22 on that wiretap any information regarding violent activities
23 was received?

24 A. There is no information indicating here about
25 violence.

1 A. Until July 1974.

2 Q. What portion of time were you assigned to the
3 Federal Bureau of Investigation headquarters in Washington?

4 A. From 1956 until 1972.

5 Q. During any period of that time, did you have
6 responsibilities relating to -- during any period of that
7 time were you assigned to the Domestic Intelligence Section
8 of the FBI?

9 A. Yes, as a matter of fact, all that time.

10 Q. Well, with regard to the Internal Security Section,
11 did there come a time in which you were assigned to that
12 section?

13 A. I was assigned to the Internal Security Section,
14 as I recall, in 1964 as the assistant chief, or the number
15 one man as they're called, and I was promoted to section
16 chief in charge of the Internal Security Section in December
17 1966, and thereafter I was appointed acting director of the
18 Domestic Intelligence Division in the summer of 1970, and in
19 September of 1970 I was designated assistant director of that
20 division.

21 Q. How long did you retain that capacity?

22 A. Until September of 1971.

23 Q. Prior to becoming assistant chief, what generally
24 was the nature of your assignment in the Domestic Intelligence
25 Division?

1 A. Prior to becoming assistant chief of --

2 Q. Prior to 1964.

3 A. From 1956 until 1964, I worked in what was known
4 as a research section where I did primarily writing research.

5 Q. Did you have any responsibilities during that period
6 relating to conducting or supervising investigations?

7 A. No, I did not.

8 Q. Now, sir, during the time that you were chief of
9 the Internal Security Section, what generally was the nature
10 of your duties?

11 A. Generally my duty was to supervise the personnel .
12 who were assigned to the Internal Security Section, and, in
13 effect, to act as a middle manager seeing to it that they
14 fulfilled their responsibilities as FBI headquarters super-
15 visors, and at the same time seeing to it that their work
16 was consistent with the policies and procedures of the
17 officials who were above me.

18 Q. What generally was the nature of the responsibility
19 of the supervisors within your section? What were their
20 responsibilities?

21 A. Their responsibility basically was to have --
22 they had cases assigned to them which stem from the field
23 office investigations, and a Bureau supervisor's responsi-
24 bility was to see to it that the cases being investigated
25 by the field and being reported by the field fulfilled the

1 functions and goals and the criteria in regard to each
2 individual case, and to suggest to the field procedures
3 that they might consider if they felt that the case had not
4 been thoroughly investigated. And in turn, their respon-
5 sibility also was to prepare recommended courses of action
6 based on the supervision of their cases, to forward them to
7 me and to other Bureau officials for any actions that they
8 would deem necessary in connection with our investigations.

9 Q. During the period, sir, from 1968 to 1972, can
10 you estimate the total number of cases under investigation
11 at any particular time, that would be open at one time?

12 A. It would run in the thousands.

13 Q. This would be on a nationwide basis?

14 A. Yes. Our supervision concerned the more than 50
15 field offices that the FBI had around the country, including
16 an office in San Juan.

17 Q. Where were the investigations actually conducted?

18 A. The investigations, of course, were conducted
19 by the field office personnel in our various offices.

20 Q. Were they required to provide reports or summaries
21 to somehow notify headquarters of the results of their
22 investigations?

23 A. Yes, there was certain criteria established in
24 connection with every type of investigation, and the agent in
25 the field who had the responsibility for conducting an

1 investigation had to fulfill the needs and goals of the
2 investigation in line with the criteria which had been
3 established. There were also reporting needs which he had
4 to fulfill. So his cases were supervised by field office
5 supervisors, and he had a responsibility of preparing
6 letters or reports within a specified period of time to show
7 that he was completing the investigation and his cases.

8 Q. Now, when these reports arrived at Federal Bureau
9 of Investigation headquarters, would they as a routine matter
10 be routed through you personally as section chief?

11 A. No, they would not. They would go right to the unit
12 and to the desk of the individual supervisor who had the
13 responsibility for those types of investigations.

14 Q. Would particular investigative matters come to
15 your attention -- particular investigations?

16 A. The only ones that came to my attention would be
17 investigative matters of major importance and matters which
18 would deal with possible changes in policies or procedures or
19 would have a bearing or effect on the policies or procedures
20 of the FBI.

21 Q. Sir, how many agent supervisors were in your section
22 during the period -- approximately at any given time?

23 A. In the section there were approximately 21.

24 Q. Were their responsibilities divided in accordance
25 with any sort of subject category or any other kind of

1 category?

2 A. Yes. The section was divided into units, and in
3 the Internal Security Section we had seven units, so we had
4 approximately three men in each unit. Each unit had a
5 specified function which would cover certain categories of
6 certain types of investigations. The supervisors in each
7 unit would have the cases broken down and assigned to him
8 basically on -- on the basis of the number of cases involved
9 under their supervision and possibly on their geographical
10 basis.

11 Q. Of those seven units, was there one that would have
12 had particular responsibility for Counterintelligence
13 Program - New Left matters?

14 A. Yes, my recollection is there was, but at the same
15 time, everybody was made aware that they also had the
16 responsibility for being aware of counterintelligence program
17 possibilities in connection with their individual cases.

18 Q. That being the case, what was the particular
19 responsibility of the unit that had the counterintelligence
20 program assigned to it?

21 A. To a great extent there was a correlation problem.
22 In order to insure that you had a statistical record, and to
23 be consistent with the procedures in connection with
24 counterintelligence operations, you would have, in effect,
25 a coordinator to sort of oversee the entire thing.

1 Q. Do you recall the names of the agents who were in
2 that unit during the time the Counterintelligence Program -
3 New Left was in existence?

4 A. The primary agent that I recall being in charge
5 of the Counterintelligence program for the longest period of
6 time was an agent supervisor by the name of David Brian. He
7 had several other supervisors with him who rotated in and
8 out, and I don't recall their names at the time.

9 Q. You testified previously that the Counterintelligence
10 Program - New Left was initiated while you were the section
11 chief. Do you recall that testimony?

12 A. Yes.

13 Q. What -- did you personally approve the document
14 which constituted the recommendation that the program be
15 established?

16 A. No, I couldn't approve a program of that nature on
17 my level.

18 Q. At what level was that recommendation approved?

19 A. It is my recollection it was approved by Mr. Hoover.

20 Q. What was the nature of your responsibility as
21 section chief in connection with the counterintelligence
22 program?

23 A. Basically my responsibility focused on a review of
24 the recommendations which might be made in connection with a
25 program and in turn to further those or to -- if I indicated

1 approval, to put my initials on them, and to send the
2 recommendations further up the line to the various individuals
3 who would be responsible for the ultimate approval.

4 Q. I want to change the subject briefly to get to
5 another matter. I want to show you what has been marked
6 as Federal Defendants' Exhibits 7, 8, 9, 10, and 11.

7 Now, sir, do you know what the Security Index
8 was?

9 A. Yes, the Security Index is a name for a program
10 which goes all the way back, I believe, to the late 1940s
11 and the early 1950s. The Security Index consisted of names
12 of individuals who it might be deemed would be dangerous to
13 the interests of the United States in the event of an
14 emergency such as a war, and who, because of the -- their
15 dangerous nature, would be considered for possible emergency
16 detention.

17 Q. Did your section have any responsibility in
18 connection with the Security Index?

19 A. Yes. The Internal Security Section had the
20 responsibility for working out the Internal Security Index
21 Program, dating back, I believe, to its initiation. It
22 stemmed from discussions between representatives of the
23 Federal Bureau of Investigation and the Department of Justice
24 as to what criteria should be established for the listing of
25 individuals whose names should be included on the Security

1 Index.

2 Q. When you were the section chief, did you initiate
3 any particular action regarding the Security Index Program?

4 A. Yes, I did.

5 Q. Would you describe that, please?

6 A. Yes. At the time I took over as chief of the section,
7 I was somewhat concerned that we had a list of individuals
8 whose names on the Security Index numbered approximately
9 nine or ten thousand. I felt that it would not be appropriate
10 in the event of an emergency to have a program whereby
11 every one of those individuals would be picked up for
12 emergency detention. As a result, I ordered my supervisors
13 to conduct a review of the program in order to establish
14 what I considered to be something more feasible. It was a
15 priority system, so we established three different priorities.
16 The number one priority had to do with the individuals
17 who would be the leaders of organizations under investigation
18 by the FBI which were considered to be subversive in nature
19 or a revolutionary type organization. The number two priority
20 had to do with second level individuals within those
21 organizations, and the third priority had to do with the
22 rank and file members of those various organizations so that
23 in the event that the emergency detention program would have
24 been put into effect, we would have been -- it would have
25 been possible for us to pick up individuals in the numbering

1 of hundreds rather than thousands.

2 Q. Was there a memorandum or document prepared in
3 your section which related to this new designation of
4 priorities?

5 A. Yes, there was.

6 Q. Now, Mr. Brennan, I would like to direct your
7 attention to Federal Defendants' Exhibit Number 9, and for
8 the record I will state that this document is identical to
9 Plaintiffs' Exhibit Number 80.

10 A. Yes, I have it.

11 Q. Have you had an opportunity to examine it, to
12 examine the document?

13 A. I am familiar with it. I know what it's all
14 about.

15 Q. In connection with that, Mr. Brennan, is this the
16 memorandum which contains the proposal or recommendation just
17 described regarding the three priorities for the Security
18 Index?

19 A. Yes, it is.

20 Q. Was the matter of the Security -- does this
21 memorandum contain a recommendation regarding the -- regarding
22 communication with the Department of Justice relating to the
23 Security Index?

24 A. Yes, there was a letter to the Department containing
25 our recommendations for this change into a priority system.

1 Q. What would have been -- what was the function of
2 the letter that was to go to the Department of Justice?

3 A. To see if the Department of Justice would approve
4 hard proposed changes in the system. We could not make any
5 changes in the Security Index system without finally getting
6 ultimate approval by the Department of Justice and the
7 Attorney General.

8 Q. Mr. Brennan, did you at any time have any personal
9 conversation -- that is, you personally -- with persons in
10 the Department of Justice regarding the Security Index?

11 A. Yes. In order to explore the feasibility of
12 changing the system, I sat down with one of my Bureau super-
13 visors and two departmental representatives, and we had
14 discussions concerning the program.

15 Q. Now, sir, I'd like to direct your attention to
16 Federal Defendants' Exhibit Number 10.

17 A. Yes, I have it.

18 Q. Does this document bear any relationship to the
19 conference which you have just described?

20 A. Yes, this is a letter to the Assistant Attorney
21 General in the Department of Justice from the director
22 of the FBI in which the director confirms the results of the
23 conference, which you mentioned, which I had with one of my
24 Bureau supervisors and two of the departmental officials.

25 Q. Now, Mr. Brennan, from your examination of Exhibit

1 Number 9 and Exhibit Number 10, you've just described
2 Exhibit Number 10 as a letter to the Assistant Attorney
3 General from the Justice Department. Is Exhibit 10 the
4 letter which by Exhibit Number 9 was recommended to be sent
5 to the Justice Department?

6 A. Yes, yes, it is.

7 Q. Sir, would you state for the record and to the jury,
8 please, the date of the letter which is Exhibit Number 10?

9 A. The date of the letter is May 1, 1968.

10 Q. Does this letter contain the recommendation regarding
11 the priorities that you described relative to the Security
12 Index?

13 A. Yes. This is a letter by which we suggested to the
14 Department of Justice what our proposed changes might be in
15 the program and asked the Department of Justice for its
16 consideration as to whether or not the Department would
17 approve.

18 Q. To the best of your recollection, did the
19 Department approve?

20 A. Yes, it ultimately did.

21 Q. How did they communicate that approval to you?

22 A. By a letter back to the director of the FBI from
23 the Department of Justice, I believe from the Attorney
24 General or the Assistant Attorney General.

25 Q. Sir, I'd like to direct your attention now to

1 Exhibit Number 11.

2 A. Yes.

3 Q. Is Exhibit 11 the matter which you have just
4 described?

5 A. Yes. It is dated June 17, 1968. It's a letter
6 from the Assistant Attorney General in the Department of
7 Justice to Mr. Hoover in which they advised that our proposal
8 to establish three priorities in connection with the
9 Security Index Program was approved.

10 Q. Now, sir, at this time in 1968 and during the time
11 you were section chief, did you have an opinion as to whether
12 the maintenance of the Security Index was lawful?

13 A. It was my understanding that it was. It was my
14 understanding that the creation of the Security Index dated
15 all the way back to, as I indicated, the 1940s and '50s,
16 and I believe probably emanated from the -- at least it was
17 my understanding that it emanated from the White House in
18 connection with Presidential concern over what action the
19 government would take concerning dangerous persons in the
20 event of war.

21 Q. Sir, I'd like you -- I'd like to direct your attention
22 now to Exhibit Number 7. If you would take a moment to
23 examine that document, please, sir.

24 A. Yes.

25 Q. Does this document, Mr. Brennan, pertain to the

1 Security Index?

2 A. Yes, it does.

3 Q. Would you state for the Court, please, and jury
4 the general nature of this document and its relationship
5 to the Security Index?

6 A. Again, this is a letter dated September 19, 1968.
7 It's from the Assistant Attorney General from the Department
8 of Justice to J.E. Hoover. It deals with certain word changes
9 relative to the criteria which were to be established in
10 regard to the existence of the Security Index, but it was
11 merely a question of wordage, and, as indicated in the
12 letter, it makes no changes in the essential substance of the
13 criteria themselves.

14 Q. Now, directing your attention to Exhibit Number 8,
15 sir, does this document bear a relationship to the Security
16 Index and, in particular, to the memorandum you just
17 described?

18 A. Yes, this is the FBI's reply to the letter that
19 I just noted previously, which we had received from the
20 Department of Justice.

21 Q. From whom -- well, would you state the date?

22 A. This is a letter dated September 26, 1968, and it's
23 from the director of the FBI to the Assistant Attorney
24 General, the Department of Justice.

25 Q. What is your response, if any, contained in this

1 memorandum?

2 A. In this letter, Mr. Hoover indicated to the
3 Department of Justice that the changes they had proposed
4 in their letter are acceptable to the FBI, and accordingly
5 the FBI would be guided by the revised criteria that they
6 had set forth for us.

7 Q. Now, Mr. Brennan, in connection with the Security
8 Index, wasn't it the function of your section to maintain
9 the index itself or -- well, let's do this first: Was there
10 actually a physical index, and if so, could you describe it?

11 A. There was a physical index to the extent that the
12 individuals' names who fit the criteria had to be listed in
13 one place for approved action.

14 Q. And was that list maintained in your section or
15 elsewhere in the Justice Department or FBI?

16 A. I believe the names on the index were probably card
17 reference for appropriate action in the event of a national
18 emergency, but I really can't tell you exactly where they
19 were maintained.

20 Q. Whose responsibility was it to -- if anyone's --
21 to make recommendations regarding the names that should be
22 placed on the Security Index?

23 A. Basically it would be the field office's respon-
24 sibility to do so. In other words, a field office agent would
25 have an investigation of an individual who would be a member

1 of a subversive organization, a revolutionary organization,
2 or something of the type that would fit into the category,
3 and ultimately if the individual fit the criteria which had
4 been established for inclusion on the Security Index, the
5 field office agent could make that recommendation to the --
6 in his report, which would go to the Bureau supervisor, the
7 FBI supervisor. The FBI supervisor, in turn, might send
8 out a communication to the field office suggesting that in
9 connection with a certain case they might want to explore
10 whether or not the individual would fit the criteria for
11 the Security Index. If it was so deemed that the individual
12 under investigation did fill the criteria for it, a report
13 would be prepared concerning the nature of the activities
14 which would fit the criteria. That report would be forwarded
15 to the FBI headquarters and go to the desk of the FBI
16 supervisor, and the FBI supervisor in turn would arrange to
17 forward it to the Department of Justice with the suggestion
18 that the individual appeared to satisfy the criteria to fit
19 on the Security Index. It's my understanding that if the
20 Department of Justice in turn agreed that it did fit the
21 criteria, the individual's name would be added to a list for
22 what was called the Security Index.

23 Q. Thank you, sir.

24 Now, sir, I hope these switches don't confuse you,
25 but I'd like to go to the subject of electronic surveillance.

1 I want to show you what we have marked as Federal
2 Defendants' Exhibits 1, 2, and 6. If you would take
3 a moment, please, sir, to examine those documents.

4 Mr. Brennan, did the Internal Security Section --
5 did the Internal Security Section have any responsibilities
6 in connection with electronic surveillance --

7 A. Yes, it did.

8 Q. -- conducted by the Federal Bureau of Investigation?

9 A. Yes, it did.

10 Q. What generally was the nature of that section's
11 responsibility?

12 A. We had one unit which concerned itself almost exclu-
13 sively with the installation of security, electronic surveil-
14 lances, wiretaps, and microphones. The responsibility of
15 that unit was, number one, to maintain a history of the
16 FBI's investigative procedures from the very beginning, and
17 its relationship with the Department of Justice
18 as to what the chronology has been by which the
19 criteria have been established for the installation of
20 electronic surveillances, and also to follow matters which
21 judicially would impact on the FBI's installation of
22 electronic surveillances in the security field, and to
23 insure that the FBI was acting within the criteria of the
24 latest legislative or judicial judgments which would affect
25 how we would apply wiretaps.

1 In addition, that unit acted as a guide, so to
2 speak. If an electronic surveillance was going to be
3 employed, the individual, say, a Bureau supervisor in another
4 section, would also consult with the supervisor who is in the
5 informant unit to insure that they had fulfilled the necessary
6 criteria to see to it that the letters were prepared for
7 the approval of FBI officials and prepared in accordance with
8 the criteria established by the Attorney General so that
9 the request could be forwarded to the Attorney General for
10 his approval.

11 Q. Sir, during the period from '68 until the time
12 you left the Domestic Intelligence Division -- I realize
13 your position changed during that period -- but from '68 to
14 September of '71, when you left the Domestic Intelligence
15 Division, what was your understanding of the authority of
16 the Attorney General regarding electronic surveillances?

17 A. There is no question that in that period, and as a
18 matter of fact my understanding is from all the history I
19 have read and records I have reviewed, the one thing that
20 remained constant throughout it all was that the FBI, in
21 order to install a wiretap, had to secure the written
22 authorization of the Attorney General.

23 Q. Now, focusing in particular on the electronic
24 surveillances for which your section had responsibility, was
25 it your understanding that the Attorney General had authority

1 to authorize such surveillance?

2 A. Yes, that was always my understanding.

3 Q. Now, were there any communications to or from the --
4 well, I'm sorry, I'll do it this way: Were there any
5 communications between the FBI and the Attorney General
6 relating to the issue of his authority to authorize such
7 surveillances?

8 A. Yes, over the years there were numerous communi-
9 cations.

10 Q. Now, sir, I'd like to direct your attention now
11 to Exhibit Number 1, Federal Defendants' Exhibit Number 1,
12 which is in front of you.

13 A. Yes.

14 Q. Have you had an opportunity to review the document,
15 Mr. Brennan?

16 A. Well, it's rather long, but go ahead.

17 Q. Mr. Brennan, what is the date of this document?

18 A. May 6, 1969.

19 Q. Who is it from?

20 A. The Attorney General of the United States.

21 Q. To whom is it addressed?

22 A. It's addressed to the director of the FBI.

23 Q. What is the subject matter just generally of this
24 document?

25 A. It concerns the matter of -- the Omnibus Crime

1 Control and Safe Streets Act of 1968 and what impact or
2 how that act might affect the installation of wiretaps in
3 national security cases, whether it would have a bearing on
4 it.

5 Q. Now, sir, from your examination of the document
6 and from your own recollection and knowledge regarding your
7 duties in the FBI, was this document transmitted to your
8 section, the Internal Security Section, at that time?

9 A. I'm sure it would be, just by the nature of the --
10 what it concerns: wiretaps in the security field.

11 Q. Now, from your examination of the document, does
12 that document state either directly or indirectly that the
13 Attorney General believes he has the authority to authorize
14 electronic surveillances for national security purposes?

15 A. It's my understanding and recollection that it
16 did.

17 Q. Now, sir, I would like to direct your attention to
18 Federal Defendants' Exhibit Number 2.

19 A. Yes.

20 Q. Does this document relate to the issue of electronic
21 surveillance?

22 A. Yes, it does.

23 Q. From whom is it?

24 A. It's a letter dated July 14, 1969. It's again from
25 the Attorney General of the United States to the director of

1 the Federal Bureau of Investigation. The subject is
2 electronic surveillances.

3 Q. Does this document contain directions or instructions
4 from the Attorney General regarding the manner in which
5 electronic surveillances are to be conducted?

6 A. Yes, it does.

7 Q. Does it -- from your examination of the document,
8 and from your own recollection and knowledge of your duties
9 at the FBI, was this document transmitted to your section?

10 A. Yes, I'm sure it was.

11 Q. Directing your attention now to Exhibit Number 6..

12 A. Yes.

13 Q. Would you describe for the jury, please, what this
14 document is?

15 A. This is what is known as an SAC letter. An SAC --
16 SAC stands for special agent in charge. An SAC letter was a
17 letter which would be sent to all of our more than 50 field
18 offices around the country when it concerned an item of
19 policy or procedure which would materially affect the
20 operations or procedures of our various field offices.

21 Q. Now, what is in general the subject matter of
22 this SAC letter?

23 A. It stems from and relates to the previous commu-
24 nications that you discussed: The use of electronic
25 surveillances in internal security cases. It relates -- it

1 relays to our field offices the observations of the Attorney
2 General relative to the procedures that should be carried
3 out and should be effected in connection with any wiretaps
4 that -- which they may be utilizing whereby there was a
5 possibility that the wiretap might cause an overhearing
6 between defense counsel and one of the defendants in the
7 case.

8 Q. Going back to the basic functions of your section
9 and later the division of which you were the assistant
10 director, what essentially was the mission of the Internal
11 Security Section, if you could state that briefly?

12 A. Essentially the function of the section was to
13 review security matter cases being investigated by the FBI,
14 and initially as it affected primarily the organizations
15 which were considered to be subversive in nature, revolu-
16 tionary in nature, or a Communist front organization and
17 the like.

18 Q. Sir, what, to the best of your recollection, was
19 occurring at this time which made it appropriate for your
20 section and for the Federal Bureau of Investigation to be
21 involved in those kinds of investigations?

22 A. The section had the responsibility for those types
23 of investigations dating back for years, and the appropriateness
24 of the investigation goes to the legislative enactments and
25 the Presidential directives and the instructions which the FBI

1 received from the Attorney General relative to what our mandate
2 was to conduct security matter investigations. Our primary
3 concern as time went by was the growth of self-professed
4 revolutionary elements in organizations like the SDS, and
5 also the increasing violence which we were beginning to
6 witness that was taking place in connection with a lot of
7 the demonstrations and activities that these groups were
8 involved with.

9 Q. What -- in connection with the demonstrations,
10 did you have occasion to -- what normally were your respon-
11 sibilities on the day that a demonstration occurred in the
12 city of Washington, if you had any responsibilities?

13 A. I had little responsibility on the day that a
14 demonstration occurred other than to insure that our
15 Washington field office agents were correlating their infor-
16 mation with other law enforcement agencies in the area which
17 had responsibilities for riot control in the streets, such
18 as the Metropolitan Police, and Park Police, and Capitol
19 Police.

20 Q. Now, sir, on the day a demonstration would occur,
21 what were your normal practices or activities in the city of
22 Washington?

23 A. Mine specifically?

24 Q. Yes, sir.

25 A. On the days that the demonstrations took place, I

1 customarily went out to act as an observer, to witness what
2 was transpiring, and really to get a feel for the nature of
3 the events, the people who were active in them, and to
4 generally try to understand more about what actually was
5 involved. I think there's a difference in being on the scene
6 and witnessing these things as compared to just sitting back
7 and being told the events of what had transpired.

8 Q. Earlier when you testified, you testified that you
9 had been present at a demonstration that occurred at the
10 Pentagon in 1967. Were there any other occasions in which
11 you personally witnessed disruption or illegal or violent
12 activity at a demonstration?

13 A. Yes, really I got out on the street in virtually
14 every one of the demonstrations, and I recall, for example,
15 the one which resulted in approximately 4- or 5000 demon-
16 strators late in the afternoon surrounding the Department of
17 Justice and throwing rocks at the building, smashing windows,
18 smashing bottles up against the building. I was really
19 directly in the middle of the crowd, and I had the opportunity
20 to witness those events firsthand. And in the process, I
21 might say I also wound up -- when the police decided to
22 disperse them with tear gas, I got a good dose of gas.

23 Q. Now, sir, did the FBI as an investigative agency
24 have responsibility with regard to the matter of demonstrations?
25 The question might be a little vague, but I'll leave it at that,

1 unless you can't answer it.

2 A. Well, yes, really. Basically you have federal
3 antiriot laws, and you also have a responsibility in the
4 nation's capital and District of Columbia for relaying to
5 other law enforcement agencies any information which would
6 come to your attention whereby it appeared that there was
7 likely to be violence, whereby it would appear that there
8 was likely to be damage to government property and the like,
9 and you had to insure that you disseminated this type of
10 information to the local law enforcement elements responsible
11 for maintaining the stability and order in the community.

12 Q. Now, sir, did your section have responsibilities
13 in connection with the investigations of what has been called
14 the New Left?

15 A. Yes, it did.

16 Q. And is it possible for you now at all to define
17 what the term "New Left" means or meant at that time?

18 A. I have been asked many times, and I believe I --

19 MS. PILSBURY: Your Honor, I would just point out
20 he was also asked this last week, and it's getting to be a
21 little cumulative.

22 THE COURT: Objection is overruled.

23 THE WITNESS: It's really a very difficult term to
24 define. I think essentially at the core of the New Left
25 movement, you had an organization called the Students for a

1 Democratic Society. The Students for a Democratic Society
2 sort of in turn gave birth to other sorts of related
3 organizations of particularly young people who were opposed
4 to a great extent to our involvement in the war in Vietnam,
5 and it attracted other individuals who, by reason of their
6 interests in those particular times, their interest in drugs
7 and the like, sort of caught up on the fringes of these
8 things, and basically a widespread element of people of
9 a dissident nature who were opposed and whose opposition
10 primarily was focused against the war in Vietnam for a variety
11 of reasons.

12 Q. Were these organizations involved in activities
13 which, in your view, required that the Federal Bureau of
14 Investigation investigate?

15 A. Yes. In the first place, as the SDS rhetoric hardened,
16 as the leaders of the SDS publicly professed themselves to be
17 radical revolutionaries, and as they aligned themselves
18 with Marxist and Leninist concepts and principles, it became
19 mandatory for the FBI, really, to conduct additional
20 investigations into the nature of their activities.

21 Q. Now, you mentioned earlier that violent activity
22 occurred in connection with demonstrations.

23 A. Yes.

24 Q. Was this phenomenon one of the reasons that the FBI
25 was interested in investigating?

1 A. Yes, really, it became a social phenomenon of the
2 time. If -- I recall Mr. Hoover testifying, for example,
3 from the school year of September 1968 until February of
4 1970, there were --

5 MS. PILSBURY: Your Honor, if he is testifying from
6 hearsay, I will object.

7 THE COURT: Sustained.

8 Q. (By Mr. White) Mr. Brennan, in addition to the
9 actuality or potentiality of violence in demonstrations,
10 was there any other concern in connection with what we could
11 call the New Left antiwar movement in which the FBI had an
12 interest?

13 A. Yes. The increased travel abroad on the part of
14 many individuals who were connected with the New Left and
15 involved in the antiwar movement, and their attendance at
16 Communist conferences abroad, the feeling that we had that
17 they were serving international Communist purposes.

18 Q. Now, would your interest in this connection, that
19 is, the feeling of international Communist connections, apply
20 to an investigation even where there was no direct indication
21 of possible violence that the Bureau was interested in?

22 A. Well, yes, because, you know, the war in Vietnam
23 involved a war with a Communist country which was then
24 receiving the support of the Soviet Union. So that if the
25 Soviet Union and international Communist elements were

1 affected in utilizing and exploiting and manipulating
2 peoples in this country as a propaganda arm to try to lessen
3 or weaken the United States' effort against the Communists
4 in Vietnam, then actually we felt that the investigations of
5 these types of activities came within the mandate of the
6 FBI.

7 MR. WHITE: I have no further questions, Your
8 Honor. I do at this time move into evidence Federal
9 Defendants' Exhibits 1, 2, 6, 8, -- I'm sorry -- 7, 8, 9,
10 10, and 11.

11 THE COURT: Is there objection?

12 MS. PILSBURY: No, Your Honor.

13 THE COURT: Without objection, 1, 2, 6, 7, 8, 9,
14 10, 11 are received.

15 - - -

16 Whereupon, Federal Defendants' Exhibits Numbers 1,
17 2, 6, 7, 8, 9, 10, and 11 were admitted into evidence.

18 - - -

19 THE COURT: You may inquire.

20 MS. PILSBURY: Thank you, Your Honor.

21 - - -

22 CROSS EXAMINATION

23 By Ms. Pilsbury:

24 Q. Mr. Brennan, in reference to your last statement,
25 is it correct that it's your position that because the United

1 the only source of information regarding the activities of
2 the Black Panther Party?

3 A. No, we had extensive investigation of the Black
4 Panther chapters around the country.

5 Q. The Black Panther Party was a national organization;
6 is that right?

7 A. Yes.

8 Q. Was the FBI interested in the travel of Black
9 Panther Party leaders?

10 A. Yes.

11 Q. Did the electronic surveillance in Washington
12 provide information regarding the travels of Black Panther
13 Party leaders?

14 A. Yes.

15 Q. Was the recommendation for continuation of this
16 electronic surveillance on the Black Panther Party approved
17 by the Attorney General?

18 A. Yes.

19 Q. Now, with regard to -- jumping to another matter,
20 you testified that when you were assistant director, you were
21 among the top 16 in the FBI. Of those 16, how many of them
22 were directly superior to you?

23 A. Four.

24 Q. When you were the section chief, how many officials
25 or persons were there above you in the chain of command in

1 the Federal Bureau of Investigation?

2 A. Approximately eight.

3 MR. WHITE: I have no further questions, Your Honor.

4 MS. PILSBURY: No recross.

5 THE COURT: All right.

6 Ladies and gentlemen, we will adjourn for the day.
7 You can return again at 9:30 in the morning, and remember all
8 my admonitions.

9 - - -

10 Whereupon, the jury was excused for the day.

11 - - -

12 Whereupon, the following proceedings were had out
13 of the presence and hearing of the jury:

14 THE COURT: If Mr. Brennan would come back to the
15 stand, I had some questions I wanted to ask him with regard
16 to the equity part of this case.

17 Mr. Brennan, in addition to the damage suits here,
18 the plaintiffs have brought an action in equity asking for
19 injunctive relief. When Chief Wilson was in here the other
20 day, I asked him some questions after he testified. I'd
21 like to put some to you -- I don't know whether you were here --
22 some in the same genre.

23 The testimony is that the -- that in 1971, the
24 director, I suppose, ordered COINTELPRO discontinued.

25 THE WITNESS: Yes, sir.

1 THE COURT: Can you tell me in just a few sentences
2 what discontinued?

3 THE WITNESS: What discontinued or why?

4 THE COURT: No, what was the difference between
5 the morning before he gave that order and the morning after
6 in terms of the activities of the Bureau?

7 THE WITNESS: If I may explain, Your Honor, I think
8 what caused --

9 THE COURT: I don't need to know what caused it.

10 THE WITNESS: I thought you wanted to inquire why
11 he discontinued --

12 THE COURT: No, what happened?

13 THE WITNESS: Once he discontinued that, any action
14 of that nature that previously had been engaged in under the
15 program COINTELPRO was discontinued.

16 THE COURT: Were people transferred or given new
17 assignments? We had some testimony of personnel being
18 detailed.

19 THE WITNESS: I don't think it materially affected
20 our personnel, Your Honor, because there were so few people,
21 and those who were involved in COINTELPRO and the people
22 who did have responsibilities for it had a broad range of
23 other assignments. It's my recollection that there was no
24 major impact on the personnel.

25 THE COURT: There was -- the evidence is that during

1 the existence of the COINTELPRO mandate, various -- people
2 at various levels in the Bureau initiated proposals for
3 publications or activities or things like that that had
4 among other purposes, according to the evidence, the disruption
5 or discrediting of individuals. Can you make a statement as
6 to whether those kinds of things continued after the order of
7 April 1971?

8 THE WITNESS: To my knowledge, Your Honor, I don't
9 believe they did after the director ordered the discontinuance
10 of the program.

11 THE COURT: That was the only area in which that .
12 kind of conduct was being engaged in by Bureau personnel?

13 THE WITNESS: Yes, yes.

14 THE COURT: Now, between that time and 1974, were
15 you able to observe whether those kinds of things occurred
16 again? You left the Bureau in 1974?

17 THE WITNESS: Yes. You see, I was given another
18 assignment in September of 1971. Then in 1972 I was
19 transferred back to the field office operation, and I can say
20 that I was special agent in charge of the Alexandria office
21 for two years, and I was special agent in charge of the Salt
22 Lake City office for four months before my retirement. I
23 can say that in connection with those field office assignments
24 in which I was in charge of the office, there were no
25 counterintelligence operations engaged in by either of those

1 offices.

2 THE COURT: We are talking about the same thing
3 when we're talking about counterintelligence, as writing
4 letters and --

5 THE WITNESS: Yes, right.

6 THE COURT: Have you been in touch on a personal
7 or a basis where you can -- where you've got some perception
8 of what is going on in the Bureau now?

9 THE WITNESS: No, Your Honor.

10 THE COURT: Or you have been since?

11 THE COURT: No, no, not really. I have been retired
12 since 1974, and I only went into the J. Edgar Hoover Building
13 one time since that time, and a friend of mine invited me
14 just to see the new building. I have not been in any of
15 the FBI field offices since 1974. So I -- I have no contact
16 with any of the supervisory personnel working at the FBI
17 today.

18 THE COURT: Do you have an opinion, based on your
19 experience there, as to whether there is a threat or it's
20 likely that that kind of COINTELPRO activity that we're
21 talking about is likely to be resumed?

22 THE WITNESS: On the basis of hearing Director
23 Webster speak at the ex-agents' luncheon, and what little
24 I've heard of current FBI operations -- I have two children
25 currently working in the FBI today -- I would almost be

1 inclined to guarantee that you will never see a resumption
2 of that type of activity by the FBI again.

3 THE COURT: Now, suppose that despite that I -- or
4 if I didn't do it, the Court of Appeals or the Supreme Court,
5 as this case may come to their attention -- nevertheless,
6 wanted to make sure by an injunction that it didn't, do you
7 have any idea what particular thing an order should proscribe
8 in order to make sure that didn't happen?

9 THE WITNESS: I don't believe any such injunctive
10 order would be necessary, Your Honor.

11 THE COURT: Assume that I disagree with you, or
12 if I agreed with you, the Court of Appeals disagreed with
13 the both of us. Or if the Court of Appeals agreed with me
14 and you, and the Supreme Court disagreed with all three of
15 us. The thing would come back to me with an order saying
16 the matter's remanded to District Court to enter an injunction
17 not inconsistent with this opinion. That's the way I'd get
18 it. I heard somebody here talk about the difference between
19 the responsibility of the Bureau personnel and the field
20 office personnel. I'm in the posture of the field office
21 personnel. I'd have to write the order. What would it have
22 to say to stop it?

23 THE WITNESS: I don't really know quite how to
24 answer that, Your Honor.

25 THE COURT: If the director told you to write an

1 order to stop, you could draft it, couldn't you?

2 THE WITNESS: Well, yes, but as a matter of fact --
3 as a matter of fact, he did.

4 THE COURT: Is that your order, April 28, 1971? Did
5 you draft that?

6 THE WITNESS: Stopping it?

7 THE COURT: Yes.

8 THE WITNESS: I don't believe I did, Your Honor.
9 I'm sure that it passed through --

10 THE COURT: Do you think that would be a good way
11 to say it, the way it was said in the April 28, 1971 order?

12 THE WITNESS: I --

13 THE COURT: Suppose I -- suppose the order said that
14 the April 28, 1971 order will not be rescinded without
15 further order of this Court? Would that stop it, keep it
16 stopped?

17 THE WITNESS: I don't think you will ever see it
18 happen again.

19 THE COURT: I understand that.

20 THE WITNESS: Then I'm wondering why you're worried
21 and concerned about it.

22 THE COURT: I told you. I live here, I'm not in
23 the Bureau. I'm here in the field office.

24 THE WITNESS: After the Senate inquiries and
25 everything that went into that, I think that one of the big

Q. Now, did you see the man who was with the woman?

A. Yes, I saw him. He was with the woman.

Q. Did you see him when he was with the woman?

A. Yes, I saw him. He was with the woman.

Q. Did you see him when he was with the woman?

A. Yes, I saw him. He was with the woman.

Q. Did you see him when he was with the woman?

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Q. Did you see him when he was with the woman?

A. Yes, I saw him. He was with the woman.

Q. Did you see him when he was with the woman?

1 problems is that the FBI really did not have any clearcut
2 delineation for guidelines for operations,
3 and it was a case of the buck stops here. And since all of
4 those events with a Senate inquiry and the like, I think
5 that today the lines have been pretty well drawn, and I think
6 everybody has been put pretty well on notice that the
7 delineation of what the FBI can or can't do today is very
8 clear, and in addition I think that the Department of Justice
9 has taken over a much firmer control of the FBI so that it
10 is not going to operate in the autonomous manner that it did
11 under Mr. Hoover.

12 THE COURT: If what you say is true, then if I
13 were to decide that what did occur was unlawful, I shouldn't
14 expect too much difficulty in getting the Department of
15 Justice to agree to a consent order.

16 You don't have to answer that.

17 THE WITNESS: Thank you, Your Honor.

18 - - -

19 Whereupon, the Court recessed for the day.

20 - - -

problem is that the FBI itself did not have any criminal

information for collection for this case.

and it was a case of the fact that the FBI did not have any

information about a possible inquiry and the fact, I think

that today the FBI has been looking well ahead, and I think

everybody has been looking well ahead of the fact that the

delinquency of what the FBI can do today is very

clear, and in addition I think that the Department of Justice

has taken over a much larger control of the FBI as time is

is not going to be able to do the job that it used to do

under the law.

THE COURT: It is not only a fact, but it is

also a fact that what did occur was unlawful, I think.

And I think that the Department of

Justice is going to be a constant order.

You don't have to answer that.

THE ATTORNEY: Thank you, your honor.

Accordingly, the Court adjourns for the day.